

**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 Milton Keynes 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.

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.

4.1 Time limits

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.

The Subject Member will be given 14 working days in which to respond on the allegations made.

5. Decision on whether to progress the matter

Informal Resolution

Milton Keynes Council takes the view that complaints are best resolved informally whenever possible.

Complainants and Subject Members will, depending on the matter, be asked for their views on informal resolution at an early stage.

If one or both parties are agreeable to informal resolution, then the Monitoring Officer may commence the informal resolution process.

The Monitoring Officer will then decide whether or not informal resolution has been successful, and whether the complaint should commence to the formal resolution stage.

Formal Resolution

The Monitoring Officer will consult with the Independent Person on the matter and may;

- I. Reject the complaint, with reasons
- II. Explore further resolution of the matter
- III. Investigate the matter (or appoint an investigator to investigate the matter)

IV. Refer the matter to an Assessment Sub Committee

5.1 Preliminary Tests

The Monitoring Officer will initially consider;

Was the Subject Member acting in their capacity as a Member 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?

The Code that applies will be the one, adopted by the authority of which the Subject Member is a member (if the Subject Member is a member of more than one authority, the authority 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 Monitoring Officer will, at all times bear in mind the Nolan Principles.

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

5.2 Further Tests to Consider

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?

5.3 The Independent Person

The Monitoring Officer will discuss these issues with the Independent Person, along with the facts presented in the complaint.

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

The Monitoring Officer will take into account the view of the Independent Person when coming to their decision.

5.4 Decision Notice

Where the Monitoring Officer decides to;

- I. Reject the complaint, with reasons
- II. Explore further resolution of the matter
- III. Investigate the matter (or appoint an investigator to investigate the matter)

The Monitoring Officer will issue a decision notice to the Complainant and the Subject Member explaining the reasons for their decision and setting out any other action that may need to be taken. This will be sent to the Complainant and the Subject Member within 5 days of the Monitoring Officer's decision.

The Monitoring Officer may include the Independent Persons 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.

5.5 Referral of the Matter to an Assessment Sub-Committee

Where after considering the matters above, the Monitoring Officer comes to the view that the matter is;

- I. Very serious
- II. A conflict of interest has arisen
- III. The matter is particularly complex
- IV. The matter is potentially going to attract a high level of public interest
- V. The matter is politically sensitive; or
- VI. Any other substantial reason

The Monitoring Officer will not make a decision but refer the matter to an Assessment Sub Committee for a decision to be made.

5.6 Time limits

The Monitoring Officer will make their decision within 5 working days of receiving the Subject Members response (or the deadline given to the Subject Member for receipt of a response, whichever is sooner).

6 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.

6.1 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.

6.2 Co-option

One 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.

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 members of the Assessment Sub Committee prior to making a decision.

6.4 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.

6.5 Criteria considered by the Assessment Sub Committee

The Assessment Sub Committee will initially consider;

Was the Subject Member acting in their capacity as a Member 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 Assessment Sub Committee will go on to consider;

Which Code should apply?

The Code that applies will be the one, adopted by the authority of which the Subject Member is a member (if the Subject Member is a member of more than one authority, the authority 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 Assessment 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?

6.6 Further tests to consider

If the answer to this question is yes, the Assessment 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?

6.7 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
- Refer the complaint to the Monitoring Officer for resolution

A decision notice, setting out the Assessment Sub Committee's decision will be sent to the Subject Member and the Complainant within 5 working days of the decision.

7. Investigation

If either the Assessment 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 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.

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 the Assessment Sub Committee, 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 and the Complainant within 5 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 can be found on the website.

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 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; and
- 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 Sub Committee Panel Hearing 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.

Time Line for Initial Standards Complaint Decision

Complaint received	Monitoring Officer acknowledges receipt and sends copy to Subject Member					Response from Subject Member										Monitoring Officer discusses matter with Independent Person and makes a decision OR refers to Assessment Sub Committee					Monitoring Officer sends out decision					Date agreed for Committee and parties informed Papers published	5 clear days					Meeting held and decision issued		
																					Committee Members asked to respond													
Day 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32-37			