

**SOUTH RIBBLE BOROUGH COUNCIL**

**INVESTIGATION AND HEARING PROCEDURE**

**ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS**

**1. Introduction**

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No Member or Officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

**2. Making a complaint**

A complaint must be made in writing by post or email to: –

David Whelan  
Interim Monitoring Officer  
South Ribble Borough Council  
Civic Centre  
Leyland  
PR25 1DH

OR

dwhelan@southribble.gov.uk

1. The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it.
2. Details of the complaint will initially be given (either verbally or in writing) to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council as well).
3. The Subject Member may either reply verbally to the monitoring officer or within 5 working days of receipt, make written representations which he must take into account when deciding how the complaint will be dealt with. Representations received after this time will not be taken into account unless the monitoring officer considers it appropriate to do so.

**3. Initial Assessment**

The Monitoring Officer will carry out the initial assessment of any complaint. This will normally be in conjunction with one of our Independent Persons. The Assessment will have regard to our Assessment Criteria – please see the Appendix A to this policy.

Where the Monitoring Officer considers it to be appropriate he or she may refer the initial complaint to the Hearing Panel (please see paragraph 9) for determination.

#### **4. Maintenance of Confidentiality by Members**

Any Member involved in a complaint – whether as Complainant, Subject Member or Witness – is strongly recommended not to speak to the Press about the complaint (or to discuss it on social media) whilst that complaint is still being dealt with by the Monitoring Officer and/or Standards Committee

#### **5. Informal Resolution**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Please see the Assessment Criteria for more information about informal resolution.

Where the Subject Member makes a reasonable offer of informal resolution the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

**The Monitoring Officer will endeavour to seek resolution of complaints without formal investigation wherever practicable.**

#### **6. Investigation**

If the Monitoring Officer decides that a complaint merits formal investigation then he may appoint an Investigating Officer.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

#### **7. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if satisfied with the report, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct and will close the matter.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report. A copy will also be provided to the Independent Person.

If the Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, he may ask the Investigating Officer to reconsider their report and conclusion.

## **8. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and if satisfied that the investigation has been conducted satisfactorily will then either send the matter to be considered by a Hearings Panel (see paragraph 9 below) or, after consulting with the Independent Person and the Complainant, seek Informal Resolution.

Where, in the opinion of the Monitoring Officer, Informal Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel for their consideration and determination.

## **9. Hearings Panel**

The Hearings Panel will consist of either the full Standards Committee or a sub-committee of that committee. In addition the Standards Committee is able to appoint Parish Councillors as non-voting co-opted members of the Panel. Composition of any sub-committee will be considered on a case by case basis - the Monitoring officer will have the authority to determine the membership of that sub-committee.

The Independent Persons are invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **10. The Independent Person(s)**

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council.

The Council currently has two such Independent Persons. Subject members may take advice from an Independent Person.

The detailed rules relating to who can be an Independent Person are set out in the Localism Act 2011.

## **11. Hearing Procedure**

The Council has agreed a procedure for local hearings which is attached as Appendix B to these arrangements.

## **12. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct**

Where a Hearings Panel find that a member has failed to comply with the Code of Conduct, the Hearings Panel may –

12.1 Publish its findings in respect of the Member's conduct;

12.2 Report its findings to Council (or to the Parish Council) for information;

- 12.3 Censure;
- 12.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 12.5 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their Portfolio responsibilities;
- 12.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- 12.7 Recommend to Council or Parish Council that the Member be removed from all outside body appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- 12.8 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 12.9 Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 12.10 Any sanction imposed by the Hearings Panel shall commence immediately unless the Hearings Panel directs that a sanction shall commence on another date within six months from the imposition of the sanction.
- 12.11 In deciding to impose a sanction the Hearings Panel shall consider all relevant circumstances and seek the views of the Independent Person.
- 12.12 The Chairman should normally announce the decision of the Hearings Panel at the hearing. Written confirmation of the findings of the Hearings Panel should be given as soon as is reasonably practicable to the Subject Member, Independent Person, Standards Committee of any other authority concerned, any parish council concerned, and any person who made an allegation that gave rise to the investigation.
- 12.13 The Hearings Panel and/or Standards Committee may consider making any recommendations to the authority concerned with a view to promote and maintain higher standards of conduct among its members.

### **13. Revision of these arrangements**

The Monitoring Officer in consultation with the Chair of Standards Committee may amend these arrangements at any time. For the sake of clarity the Chair of Standards Committee (or the Chair of a particular Hearings Panel) may vary from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **14. Appeals**

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Monitoring Officer or of the Hearings Panel.