

STANDARDS COMMITTEE PROCEDURE RULES

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: -

Chris Moister
Monitoring Officer
South Ribble Borough Council
Civic Centre
Leyland
PR25 1DH
OR
Chris.moister@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 within 7 working days of the date of the letter of notification either reply verbally to the Monitoring Officer or 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. Please see Appendix C to this document for details of the procedure to be followed.

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 nonvoting 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 un-grouped 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.

APPENDIX A

COMPLAINTS AGAINST MEMBERS SOUTH RIBBLE BOROUGH COUNCIL ASSESSMENT CRITERIA

1. Initial Tests

Before any assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following tests:

- It is a written complaint against one or more named Members of South Ribble Borough Council or a Town or Parish Council within South Ribble Borough;
- The named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code

and the complainant will be informed that no further action will be taken in respect of the complaint.

2. If the above tests are met the Monitoring Officer (normally in consultation with one of our Independent Persons) will have regard to the following criteria:

- Official capacity - was the member acting in an official capacity as an Elected Member of the Borough or a Town or Parish Council
- Adequate information - whether there is sufficient information to decide whether the complaint should be referred for investigation or other action?
- Vexatious - whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat
- Similar previous complaint(s) - whether a substantially similar allegation has previously been made by the Complainant
- Lapse of Time - whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit in taking action now
- Seriousness - Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - (i) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or;
 - (ii) Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation
- Inexperience- whether it is apparent that the Member is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction
- Wider problem - whether the complaint suggests that there is a wider problem throughout the authority which ought to be addressed on a more corporate basis
- Whether training or conciliation would be the appropriate response.

3. Hearings Panel

The Monitoring Officer has the discretion to refer the initial assessment of a complaint to a Hearings Panel for their consideration. This could happen for instance in cases of particular complexity or sensitivity.

4. Confidentiality/Anonymity

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Initial Assessment stage. As a matter of fairness and natural justice, the Member should usually be told who has complained about them and receive details of the complaint.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Member.

5. The Monitoring Officer (normally in consultation with one of our Independent Persons)

has the option to make the following decisions on any complaint:

- **that no further action be taken in respect of the matter**
- **that the matter be referred to the Group Leader for Informal Action** - this will normally only be where the complaint relates to South Ribble Borough Councillors and will not generally be appropriate if the complaint is from a member of the public.
- **that the matter is referred for Informal Resolution or other action** - this enables less serious complaints to be resolved speedily and cost effectively. Informal action may include an apology, training and mediation. The matter may subsequently be referred for formal investigation should it become apparent that the issues are more serious than was originally anticipated.
- **that the matter is referred for formal Investigation by an Investigator**- this enables the most serious allegations to be thoroughly investigated.
- **refer to Hearings Panel** - ordinarily a complaint will only be referred to a Hearing Panel after a full investigation has been carried out; however, the Monitoring Officer also has a discretion to refer initial complaints to the Panel for determination
- **That the matter is referred to the Police or other relevant Regulatory Agency** - this would be appropriate where it appears a criminal offence or breach of regulations may have taken place and in particular any failure to declare a Disclosable Pecuniary Interest under s 30 -31 of the Localism Act 2011.

**APPENDIX B
COMPLAINTS AGAINST MEMBERS
SOUTH RIBBLE BOROUGH COUNCIL
HEARINGS PROCEDURE**

Stage 1: Setting the scene

1. Any hearing will either be before the full Standards Committee or a duly appointed Hearing Panel. Any reference to "Panel" in this procedure also refers to the Committee if the full Committee is sitting.
2. After everyone involved has been formally introduced, the Chair will explain how the Panel is going to run the hearing.
3. The Chair will introduce the Independent Person(s) and explain that whilst they do not have a decision making role they are present to provide an independent view which the Panel are obliged to consider.
4. The Subject Member may be represented or accompanied at the meeting by a solicitor or barrister, or with the permission of the Panel, another person.
5. The Chair will ensure that the Subject Member (the member the subject of the complaint) is ready and happy to proceed. If the Subject Member indicates that they are not ready, they must give reasons why. The Committee will decide whether the hearing should proceed and must act reasonably in coming to that decision.
6. If the Subject Member is not present at the start of the hearing:
 - The Chairman should ask the Monitoring Officer whether the Subject Member has indicated his/her intention not to attend the Hearing
 - The Panel should then consider any reasons which the Subject Member has provided for not attending the Hearing and should decide whether it is satisfied that there is sufficient reason for such failure to attend
 - If the Panel is satisfied with such reasons, it should adjourn the Hearing to another date
 - If the Panel is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Hearings Panel should decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the Hearing to another date.
7. With the permission of the Panel witnesses may give evidence either on behalf of the Investigator or on behalf of the Subject Member.

Stage 2: Making findings of fact

8. The Panel will ask the Subject Member whether there are any significant disagreements about the facts contained in the Investigating Officer's report. If there is no disagreement about the facts, the Panel can move on to Stage 3.
9. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. A Subject Member would be expected to give at least 7 days' notice to the Monitoring Officer of any such disagreement with any relevant fact.
10. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Panel may then:
 - continue with the hearing, relying on the information in the Investigating Officer's report
 - allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond
 - postpone the hearing to allow the Investigating Officer to consider and investigate the new issue.
11. Where prior notice of any disagreement has been given the Investigating Officer, will be invited to make representations on the challenged facts.
12. The Subject Member will then have the opportunity to make appropriate representations.

13. At any time, the Panel may question the Investigating Officer or the Subject Member.
14. The Panel will usually move to another room to consider the representations and evidence in private. Also present will be the Monitoring Officer, the Independent Person and a Democratic Services Officer. On their return, the Chair will announce the Panel's findings of fact.

Stage 3: Did the Subject member fail to follow the Code of Conduct?

15. Having made the finding on the facts the Panel will then consider whether the Subject Member has failed to follow the Code.
16. The Subject Member should be invited to give relevant reasons why the Panel should decide that they have not failed to follow the Code.
17. The Panel should then consider any verbal or written representations from the Investigating Officer.
18. The Panel may, at any time, question anyone involved on any point they raise on their representations.
19. The Subject Member should be invited to make any final relevant points.
20. The Panel will then move to another room to consider the representations. The Monitoring Officer, the Independent Person and a Democratic Services Officer will accompany them. The views of the Independent Person should be sought and considered by the Panel. Where the Panel depart from the view of the Independent Person they should record the reasons why.
21. On their return, the Chair will announce the Panel's decision as to whether the Subject Member has failed to follow the Code.
22. If the Panel decides that the Subject Member has not failed to follow the Code, the Panel will inform the Subject Member accordingly.
23. If the Panel decides that the Subject Member has failed to follow the Code, it will consider any verbal or written representations from the Investigating Officer and the Subject Member as to:

- whether the Panel should apply a sanction
- what form any sanction should take

24. The Panel may question the Investigating Officer and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
25. The Panel will then retire with the Monitoring Officer, the Independent Person and a Democratic Services Officer. They will consider whether to impose a sanction on the Member and, if so, what sanction it should be. The Independent Person will not be able to participate in making the decision (i.e. vote) but their views must be considered by the Panel. Where the Panel depart from the Independent Person's views they must record reasons why.
26. The Panel will be limited to the sanctions listed in the procedure for the administration of complaints. The Panel must ensure that any sanction is reasonable and proportionate to the breach.
27. On their return, the Chair will announce the Panel's decision.