



APPENDIX A

EAST SUSSEX COUNTY COUNCIL

STANDARDS COMMITTEE

**ARRANGEMENTS FOR DEALING WITH
COMPLAINTS ABOUT COUNCILLOR CONDUCT**

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT COUNCILLOR CONDUCT

These arrangements set out how you may make a complaint that a councillor (elected Member) or Co-Opted Member of this authority has failed to comply with the Council's Code of Conduct (which can be viewed on the Council's website [\[LINK\]](#)) and set out how the authority will deal with allegations of a failure to comply with the Code of Conduct.

The Council must have in place arrangements under which allegations that an elected Member or Co-opted Member of the authority has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage.

Making a complaint

If you wish to make a complaint, please write to –
The Monitoring Officer
East Sussex County Council
County Hall
St Anne's Crescent
Lewes, East Sussex
BN7 1UE

Or email: standards@eastsussex.gov.uk

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 system in respect of complaints of Member misconduct.

In order to ensure that we have all the information we need to be able to process your complaint, please complete and send us the complaint form [\[LINK\]](#).

Please provide us with your name, a contact address and an email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

A flowchart summary of the complaint process is set out at **Appendix 1**.

1 - RECEIVING COMPLAINTS AND INITIAL ASSESSMENT

1.1 Any written communications received by the County Council that appear in any way to contain allegations that a Member has failed, or may have failed, to comply with the Code of Conduct must, upon receipt, be referred to the County Council's Monitoring Officer. The complainant will receive an acknowledgment of their complaint and may be asked to provide clarification as to which parts of the Code it is alleged have been breached.

1.2 The Monitoring Officer may, in consultation with the Chair of the Standards Committee, agree not to progress a complaint if there appears to be an insufficient basis to refer the matter to the Assessment Sub-Committee of the Council's Standards Committee. For example:

- It is about someone who is no longer a Member of the Council.
- The complaint refers to alleged behaviour/action when the councillor was not acting in their capacity as a councillor.
- There has been a long delay before the complaint was made.
- The complaint appears to be sufficiently minor, politically motivated or not sufficiently serious to warrant further action.

1.3 This list is not intended to be exhaustive and the Monitoring Officer, in consultation with the Chair of the Standards Committee, may decide that a complaint does not merit referral to the Assessment Sub-Committee for any other reason which appears to be relevant. Where a decision is made not to progress a complaint, the complainant will be informed of the decision and be provided with the reason. The Monitoring Officer, in consultation with the Chair of the Standards Committee will consider whether the Subject Member should be informed that a complaint has been submitted and that it has been decided not to pursue the complaint further.

1.4 Where the Monitoring Officer, in consultation with the Chair of the Standards Committee, agrees to refer a complaint to the Assessment Sub-Committee the Monitoring Officer will:

(a) write to the complainant confirming that the complaint will be considered at a meeting of the Assessment Sub-Committee. The complainant will be asked to provide any further supporting information they wish the Assessment Sub-Committee to consider regarding their complaint.

(b) write to the Member who is the subject of the complaint (provided that to do so would not be contrary to the public interest and/or would not prejudice the ability to investigate the allegation) to inform them:

- that a complaint has been made against them;
- the name of the complainant (unless the complainant has requested anonymity, or to do so would be unlawful);
- the relevant paragraphs of the Code it is alleged they have breached;
- that the complaint will be considered by the Assessment Sub-

- Committee and the date of this meeting if known; and
- a written summary of the allegation (except where the Monitoring Officer, in consultation with the Chair of the Standards Committee, is of the opinion that such notification would be contrary to the public interest or would prejudice the ability to investigate the allegation).

(c) prepare a report regarding the complaint for consideration by the Assessment Sub-Committee.

Procedure for allegations referred to the Assessment Sub-Committee

1.5 The County Council's Assessment Sub-Committee will be constituted by 3 Members drawn from the Standards Committee, although it will not have fixed membership or a fixed Chair, and has a quorum of 2 councillors.

1.6 There is a need for flexibility in relation to the membership of the Sub-Committee in order to be responsive to the requirement to arrange a meeting date as quickly as possible and to provide an opportunity for all members of the Standards Committee to sit on a Sub-Committee. When considering the membership of the Sub-Committee consideration would be given to factors including councillor availability and membership of previous Sub-Committees. The Sub-Committee will, wherever possible, be comprised of councillors from more than one political group but the Sub-Committee is not required to be politically balanced. The Sub-Committee will, if reasonably possible, meet within 20 working days of a complaint being received.

1.7 Decisions of the Assessment Sub-Committee will be taken by majority vote, with the Chair having the casting vote.

1.8 The report considered by the Assessment Sub-Committee including appendices will be marked as exempt and will not be published publicly.

1.9 Meetings of the Assessment Sub-Committee will be held in private and only the following are permitted to attend a meeting of the Sub-Committee:

- the members of the Assessment Sub-Committee, and
- relevant officers of the County Council.

1.10 In making its assessment of which of the actions set out below to take in respect of an allegation, the Assessment Sub-Committee must have regard to any professional advice from relevant officers of the County Council and the Assessment Criteria agreed by the County Council's Standards Committee (attached as **Appendix 2**).

1.11 In addition, the views of an Independent Person appointed by the authority must be sought in relation to an allegation prior to a decision being taken by the Assessment Sub Committee.

1.12 After having assessed any written allegations before it, the Assessment Sub-Committee must do one of the following:

- a) decide that no action should be taken in respect of the allegation;
- b) refer the allegation to the Monitoring Officer for action other than investigation including, but not limited to, requesting an apology, training or mediation;
- c) refer the allegation to the Monitoring Officer for investigation.

1.13 Within 5 working days (where reasonably practicable) of making a decision, the Assessment Sub-Committee should produce a written notice of its decision and the reasons for the decision (the Decision Notice). The Decision Notice must be prepared having regard to any professional advice from relevant officers of the County Council. The Decision Notice will be sent to the Subject Member and the Assessment Sub-Committee will consider whether the complainant should receive a copy of the Decision Notice and whether the Notice should be published. If it is decided that the complainant should not receive the Decision Notice they will receive a summary of the Sub-Committee's decision.

1.14 Where the Subject Member has already been provided a written summary of the allegation, the Decision Notice should include:

- a summary of the allegation
- the Sub-Committee's conclusion and the reasons for its decision;

1.15 Where the Subject Member has not already been provided a written summary of the allegation the contents of the Decision Notice will depend upon (i) the extent to which the Subject Member has been informed of the allegation or any of its details and (ii) any decision of the Monitoring Officer (in consultation with the Chair of the Assessment Sub-Committee) as to whether it would, at the time of issuing the Decision Notice, be contrary to the public interest, or would prejudice the ability to investigate the allegation, to provide any such details.

2 - ACTION OTHER THAN INVESTGATION

2.1 Where the decision of the Assessment Sub-Committee is to refer the allegation to the Monitoring Officer for action other than investigation the Monitoring Officer must arrange the specified action in accordance with the instruction given to them by the Assessment Sub-Committee.

2.2 The Monitoring Officer may refer the matter back to the Assessment Sub-Committee in the light of a change in circumstance such as:

- a) if, as a result of new evidence or information, the Monitoring Officer is of the opinion that the matter is materially more serious or less serious than may have seemed apparent when the Assessment Sub-Committee made its decision;
- b) if the Subject Member has died, is seriously ill, or has resigned from the County Council and the Monitoring Officer is of the opinion that, in the circumstances, it is no longer appropriate to continue with the steps proposed by the Sub-Committee; or

- c) the subject member fails to cooperate with the Monitoring Officer.

3 – INVESTIGATION OF A COMPLAINT

3.1 Where the Assessment Sub-Committee refers an allegation to the Monitoring Officer for investigation the Monitoring Officer will appoint an Investigating Officer who may be an officer of the authority, an officer of another authority or an external investigator. A summary regarding the conduct of an investigation is set out below. An Investigations Procedure is attached at **Appendix 3** and provides greater detail regarding the process followed during an investigation.

3.2 While an investigation is ongoing the Monitoring Officer may refer the matter back to the Assessment Sub-Committee in the light of a change in circumstance such as:

- a) if, as a result of new evidence or information, the Monitoring Officer is of the opinion that the matter is materially more serious or less serious than may have seemed apparent when the Assessment Sub-Committee made its decision; or
- b) if the Subject Member has died, is seriously ill, or has resigned from the County

Council and the Monitoring Officer is of the opinion that, in the circumstances, it is no longer appropriate to continue with an investigation.

3.3 At the end of their investigation the Investigating Officer will produce a report and send the final copy to the Monitoring Officer. The report will set out the details of the allegation, the relevant sections of the Code, the response of the Subject Member, the evidence taken during the course of the investigation, a statement of his/her findings, and the Investigating Officer's conclusion as to whether or not the Member has breached the Code.

3.4 The report of the Investigating Officer and supporting information, including witness statements, will be treated as confidential and will not be published publicly.

3.5 Where a report concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will refer the report to the Assessment Sub-Committee unless, following consultation with the Chair of the Standards Committee, the Monitoring Officer refers the matter to the full Committee. The presumption is that the matter would be considered by the Assessment Sub-Committee.

3.6 Where the Investigating Officer concludes that there has been a failure to comply with the Code of Conduct the County Council has delegated authority to the Monitoring Officer to refer the matter for local hearing before a Hearings Sub-Committee or the Standards Committee. The presumption is that the matter would be considered by a Hearings Sub-Committee.

Referral of the Investigating Officer's report to the Assessment Sub-Committee/Standards Committee

3.7 Where the conclusion of the Investigating Officer is that there has not been a breach of the Code of Conduct the matter will be considered by an Assessment Sub-Committee/Standards Committee. The Investigating Officer's report and the other papers to be sent to and considered by the Sub-Committee/Committee will contain exempt information and will not be published publicly.

3.8 In making its decision as to which of the actions set out below to take, the Sub-Committee/ Committee must have regard to the Investigating Officer's report; any professional advice from relevant officers of the County Council, and any relevant criteria and factors that the County Council's Standards Committee determines. The Sub-Committee would also take into account any views expressed by the Independent Person.

3.9 After having considered the Investigating Officer's report, the Sub-Committee must by majority decision make one of the following findings:

- a) that it accepts a finding of no failure (i.e. that the Subject Member has not breached the Code);
- b) that the matter should be considered at a hearing of the Hearings Sub-Committee or Standards Committee. The presumption is that the matter would be considered by a Hearings Sub-Committee.

3,10 Within 5 working days (or as soon as reasonably practicable) after making a finding of no failure, the Sub-Committee must issue a "Finding of No Failure" Decision Notice and send this to the Subject Member. The Assessment Sub-Committee/Committee will consider, whether the Decision Notice should be sent to the complainant and whether it should be published. The Subject Member may be consulted in relation to the publication of the Notice. If it is decided that the complainant should not receive the Decision Notice they will receive a summary of the Sub-Committee's decision.

4 - HEARINGS

4.1 There is a presumption that hearings will be heard by a Hearings Sub-Committee unless, following consultation with the Chair of the Standards Committee, the Monitoring Officer refers the matter to the full Committee. A summary regarding the conduct of a hearing is set out below. A Hearings Procedure is attached at **Appendix 4** and provides greater detail regarding the process followed during a hearing.

4.2 The Hearings Sub-Committee will be constituted by 3 councillors drawn from the Standards Committee, although it will not have a fixed membership or a fixed Chair. The quorum of the Sub-Committee is 2 councillors.

4.3 There is a need for flexibility in relation to the membership of the Sub-Committee in order to be responsive to the requirement to arrange a meeting date as

quickly as possible and to provide an opportunity for all members of the Standards Committee to sit on a Sub-Committee. When considering the membership of the Sub-Committee consideration would be given to factors including councillor availability and membership of previous Sub-Committees. The Sub-Committee will, wherever possible, be comprised of councillors from more than one political group but the Sub-Committee is not required to be politically balanced.

4.4 Decisions of the Hearings Sub-Committee will be taken by majority vote, with the Chair having the casting vote.

4.5 The hearing must take place within 3 months (or, if this is not possible, as soon as is reasonably practicable thereafter) of the date on which the Investigating Officer's report is completed BUT must not take place until at least 14 days after the date on which the Monitoring Officer sent the investigation report to the Subject Member, unless the Subject Member agrees to the hearing being held earlier.

4.6 The report considered by the Hearings Sub-Committee/Standards Committee, including appendices, will be marked as exempt and will not be published publicly.

4.7 Meetings of the Hearings Sub-Committee will be held in private and only the following are permitted to attend a meeting of the Sub-Committee:

- the members of the Hearings Sub-Committee,
- the Subject Member and their representative
- any witnesses
- the Independent Person
- relevant officers of the County Council
- the Investigating Officer

4.8 The hearing must be conducted to enable the Subject Member to have the opportunity to present evidence and make representations at the hearing orally or in writing either personally, by counsel, a solicitor or, with the Committee/Sub-Committee's consent, by any other representative.

Findings of the Committee/Sub-Committee conducting the hearing

4.9 In making a finding and imposing a sanction, the Committee/Sub-Committee must seek, and take into account, the views of at least one Independent Person appointed by the authority.

4.10 The Committee/Sub-Committee must reach a decision as to whether the Subject Member has breached the Code of Conduct. Following a hearing, the Committee/Sub-Committee is entitled to make one of the following findings:

- a) that the Subject Member has not failed to comply with the Code;
- b) that the Subject Member has failed to comply with the Code but that no action needs to be taken; or
- c) that the Subject Member has failed to comply with the Code and that a sanction should be imposed. Examples of sanctions that could be

considered are set out in the Hearings Procedure (**Appendix 4**).

4.11 Any sanction imposed by the Committee/Sub-Committee will take effect immediately, unless the Committee/Sub-Committee specifies a later date on which the sanction(s) should take effect.

4.12 As soon as is reasonably practicable after the hearing, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the Chair of the Committee/Sub-Committee. The Decision Notice will be sent to the Subject Member and the Committee/Sub-Committee will consider whether the Decision Notice or a summary of the decision reached should be sent to the complainant and whether it should be published.

5 – WITHDRAWING COMPLAINTS

5.1 There may be occasions when the complainant asks to withdraw their complaint prior to the Assessment Sub-Committee having made a decision on it. In these circumstances, the Assessment Sub-Committee will need to decide whether to grant the request. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the Subject Member, or an associate of theirs, to withdraw the complaint?

6 – MULTIPLE OR VEXATIOUS COMPLAINTS

6.1 The Council may receive a number of complaints from different complainants about the same matter. In such cases they should be dealt with in a manner that is a practical use of time and resources. A number of complaints about the same matter may be considered by the Assessment Sub-Committee at the same meeting. If so, the Monitoring Officer should be asked to present one report and recommendation that draws together all the relevant information and highlights any substantively different or contradictory information. However, the Sub-Committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

6.2 Unfortunately, a small number of people abuse the complaints process. The authority's policies on vexatious or persistent complainants, or to take action to limit an individual's contact with the authority could be used in such circumstances.

6.3 However, the Standards Committee must consider every new complaint that they receive in relation to the Code of Conduct. If the Standards Committee has already dealt with the same complaint by the same person and the Monitoring Officer does not believe that there is any new evidence, then a complaint does not need to be considered.

7 – MONITORING OF COMPLAINTS

7.1 A log of complaints and actions taken in response to these will be maintained by the authority. The Standards Committee will monitor the number of complaints and the outcomes in relation to each complaint in its annual report.