

Investigations Procedure

Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a Member should be investigated.

It should be read in conjunction with the document “Local Assessment of Complaints about Member Conduct”.

The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Notification requirements

Once they have appointed an Investigating Officer, the Monitoring Officer will inform the Subject Member (i.e. the Member against whom the allegation has been made) who has been appointed to conduct the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how they conduct the investigation.

They may require the Subject Member and the complainant to provide them with information and /or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

The Investigating Officer may consult the Monitoring Officer at any stage of the investigation.

The Investigating Officer may request any person to attend an interview with them and/ or provide them with documents and / or information.

Any person who is interviewed may arrange to have a friend or other person with them (provided they are not connected to any matter under investigation).

The Investigating Officer will take a note of any interviews that they conduct.

The Monitoring Officer may agree that the authority will pay such expenses, fees or allowances to any persons providing documents, information, advice or explanation, as they consider appropriate.

Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the Member is seriously ill, the Member has resigned from the County Council or the decision to investigate should be reconsidered in the light of new evidence. In such circumstances, the Monitoring Officer may decide to refer the matter back to the Assessment Sub-Committee.

Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation maintain confidentiality in order to maintain the integrity of the process.

Draft Report

When the Investigating Officer is satisfied that he/she has sufficient information, or has obtained as much information as is reasonably practicable to obtain, he/she shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the code.

The draft report should be sent to the Monitoring Officer and the Subject Member for their comments. The Investigating Officer may wish to conduct further investigations once he/she has received those comments, before producing their final report.

Final Report

The final report should include the same content referred to above in the draft report section and a final conclusion as to whether there has been a breach of the code.

It may be helpful to include a chronology, summary of disputed facts and /or to append witness statements or other documents.

The Investigating Officer's report and supporting papers will be considered as confidential in that they may contain exempt information and will not be published publicly.

Action on receipt of Report

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he /she may ask the Investigating Officer to reconsider his / her report.

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will refer the report to a Sub-Committee of the Standards Committee or the Standards Committee. The presumption is that the matter would be considered by a Sub-Committee.

Where the report 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.

The Hearings process is the subject of a separate procedure.

More information on the local resolution of complaints can be found in the Local Assessment of Complaints document.