

# Watford Borough Council's Arrangements for dealing with standards allegations under the Localism Act 2011

## Context

1. These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Watford Borough Council has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.
3. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made.

## The Code of Conduct

- 4 The Council has adopted a Code of Conduct for members, which is attached at the end of these arrangements and which is available for inspection on the Council's website [www.watford.gov.uk](http://www.watford.gov.uk) and on request from the Customer Service Centre at the Town Hall.

## Making a complaint

- 5 If you wish to make a complaint, please write or email to –

The Monitoring Officer, Town Hall, Watford, Herts WD17 3EX

Or –

[monitoringofficer@watford.gov.uk](mailto:monitoringofficer@watford.gov.uk)

- 6 The Monitoring Officer is a senior officer of the Council 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.

- 7 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Customer Service Centre at the Town Hall.
- 8 Please do provide us with your name and a contact address or 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 or in your letter or email and provide supporting reasons. The Monitoring Officer will consider the request and may, in appropriate circumstances, agree to withhold your name and address from the member against whom the complaint is made.
- 9 The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 10 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

#### **Will your complaint be investigated?**

11. The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, undertake an initial assessment of the complaint to determine firstly, whether the complaint is admissible and, if so, to decide whether:-

- a) It warrants referral for investigation
- b) It may be suitable for alternative resolution without investigation, (e.g. apology, mediation, training) or
- c) It does not warrant any further action;

12 This decision will normally be taken within 14 working days of receipt of your complaint. When considering your complaint the Monitoring Officer and Independent Person will have regard to the assessment criteria set out in Appendix 3 below. Once a decision has been taken, he will inform you of his decision and the reasons for that decision.

13. Where he requires additional information in order to come to a decision, he may come back to you for such information, and may request information from the member against whom your complaint is directed.

#### **Alternative Dispute Resolution**

14. In appropriate cases, the Monitoring Officer may seek to resolve the complaint

informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

15. If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

#### **How is the investigation conducted?**

16. The Council has adopted the following procedure for the investigation of misconduct complaints.
17. If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another council or an external investigator.
18. The Monitoring Officer will at the outset discuss with the Investigating Officer how long the Investigating Officer considers he/she will require to complete their investigation.
19. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.
20. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

21. The Monitoring Officer will write to the member against whom you have complained and provide him/her with a copy of your complaint, and inform him/her that an investigation will be carried out and provide the details of the Investigating Officer.
22. The Investigating Officer will also interview anybody else he/she deems necessary and may also ask for copies of any documents to assist him/her with the investigation. The Investigating Officer will then contact the member and ask him/her to provide his/her explanation of events, and to identify what documents he needs to see and who he/she needs to interview.
23. 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 you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
24. Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer
25. In the event that the Investigating Officer does not get cooperation from any person he/she wishes to interview. The Investigating Officer will be entitled to conclude his/her report based on the information that has been made available to him/her.

**What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

26. The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, he will write to you and to the member concerned, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

## **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

27. The Monitoring Officer will review the Investigating Officer's report and in consultation with the Independent Person will then either send the matter for local hearing before the Standards Committee or, seek an informal resolution if they consider it appropriate.

### 27.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he will consult with the Independent Person. Such resolution may include the member accepting that his/her conduct breached the code and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action.

### 27.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or is impossible to achieve, the Monitoring Officer will report the Investigating Officer's report to the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

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

28. In summary, the Monitoring Officer will conduct a "prehearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Standards Committee may issue directions as to the manner in which the hearing will be conducted.
29. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee.
30. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

31. The Standards Committee, with the benefit of any advice from the Independent Person, may conclude that:- either the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. Or The member breached the code. in which case the Chair will inform the member of this finding and the Standards Committee will then consider what sanction or action, if any, the Standards Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations to it and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

**What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?**

32. The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –
- 32.1 Publish its findings in respect of the member's conduct;
  - 32.2 Report its findings to Council for information;
  - 32.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - 32.4 Recommend to Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - 32.5 Instruct the Monitoring Officer to arrange training for the member;
  - 32.6 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or ask the Mayor to remove the member from all outside bodies that he/she has been nominated to by the Mayor;
  - 32.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
  - 32.8 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.
33. The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

### **What happens at the end of the hearing?**

34. At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.
35. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Committee, and send a copy to you, to the member, and publish it on the Council's website and report the decision to the next convenient meeting of the Council.
36. There is no right of appeal for Complainant or the member in respect of an initial assessment decision of the Monitoring Officer or the Standards Committee.
37. If a complainant feels that the Council has failed to deal with their complaint properly they may make a complaint to the Local Government and Social Care Ombudsman or make an application to the High Court.

### **Who are the Standards Committee?**

38. The Standards Committee is a Committee of the Council that six members of the Council, each political party is represented on the Committee. It is appointed on the nomination of party group leaders at Annual Council in May of each year
39. The Independent Person is invited to attend all meetings of the Standards Committee and his/her views are sought and taken into consideration before the Standards Committee 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.

### **Who is the Independent Person?**

40. The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
41. A person cannot be "independent" if he/she –
  - 41.1 (a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority; or
  - (b) stood for election to the Council: or

41.2 Is a relative, or close friend, of a person within paragraph 41.1(a) above.  
For this purpose, “relative” means –

- 41.2.1 Spouse or civil partner;
- 41.2.2 Living with the other person as husband and wife or as if they were civil partners;
- 41.2.3 Grandparent of the other person;
- 41.2.4 A lineal descendent of a grandparent of the other person;
- 41.2.5 A parent, sibling or child of a person within paragraphs 41.2.1 or 41.2.2;
- 41.2.6 A spouse or civil partner of a person within paragraphs 41.2.3, 41.2.4 or 41.2.5; or
- 41.2.7 Living with a person within paragraphs 41.2.3, 41.2.4 or 41.2.5 as husband and wife or as if they were civil partners.

#### **Revision of these arrangements**

- 42. The Council may by resolution agree to amend these arrangements and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

#### **Appeals**

- 43. There is no right of appeal for you as complainant against a decision of the Monitoring Officer or of the Hearings Panel.
- 44. If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

#### [Code of Conduct](#)

Appendix One Procedure for Hearings

Appendix Two Standards Complaints Assessment

## **Appendix 1**

### **Procedure for Hearings.**

1. The Monitoring Officer will request the convening of a Standards Committee such Committee to sit no earlier than 21 working days from the date of the request.
2. The Monitoring Officer will notify the member of the decision to convene a Standards Committee hearing and ask the member to provide her with a written response to the Investigating Officers report within 5 working days with the purpose of narrowing the issues of dispute at the hearing. The member will also be required to indicate any witnesses he/she would intend to call.
3. The Monitoring Officer will notify the Investigating Officer and complainant of the decision to convene a hearing.
4. On receipt of the member's written response or if no response is received after 5 working days the Monitoring Officer will meet with the Chair of the Standards Committee to agree any specific directions to be set for the hearing, these can include clarifying which areas are disputed and evidence needs to be adduced on, witnesses required, documents to be submitted.
5. If any directions are set the Monitoring Officer will write to both the member and the Investigating Officer with those directions.
6. The Investigating Officer will be informed of those areas of his/her report in dispute and be asked what witnesses he/she intends to call and will be required to respond within 5 working days.
7. All papers to be relied on by any party must be submitted to the Monitoring Officer no later than 5 clear days before the date of the Hearing with a copy sent to the other party.
8. The member will be entitled to employ a representative to speak on his/her behalf at the hearing. If a member chooses to employ a representative he/she does so at their own expense.
9. At the Hearing the procedure to be followed will be:
  - 9.1. Consideration of whether the matter should be dealt with in private or public
  - 9.2. Investigating Officer to present his/her case
  - 9.3. Questions by Committee and member to Investigating Officer and any witnesses
  - 9.4. Member or his/her representative to present his/her case
  - 9.5. Questions by Committee and Investigating Officer to member and any witnesses
  - 9.6. Investigating officer sums up
  - 9.7. Member or his/her representative sums up
  - 9.8. Committee takes view of Independent Person
  - 9.9. Committee makes decision if code breached or not
  - 9.10 If Committee decides code breached Committee asks member or his/her

representative to make any representations before considers sanction.

9.11 Committee takes view of Independent Person

9.12 Committee announces decision.

10. Following the hearing the Monitoring Officer will after consulting with the Committee Chair, on behalf of the Committee formally notify the member and the complainant of the Committee's decision within 5 working days of the Hearing.

## **Appendix 2**

### **Standards Complaints Assessment Criteria**

#### **Complaints which would not normally be referred for Investigation.**

1. The complaint is not considered sufficiently serious to warrant Investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complainant appears to be politically motivated; or
4. It appears that there can be no breach of the Code; or
5. It is about someone who is no longer a member of the Council; or
6. There is insufficient information available for a referral; or
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
9. It is an anonymous complaint.
10. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

#### **Complaints which may be referred to the Standards Committee**

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to deal with it; or
4. The complaint is about a high-profile member such as the Elected Mayor, Portfolio Holder or Group Leader and it would be difficult for the Monitoring Officer to deal with it; or
5. Such complaints that the Monitoring Officer considers should be referred.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers’ and members’ time. This is an important consideration where the complaint is relatively minor.