

PROCEDURE FOR DEALING WITH COMPLAINTS

1. Initial consideration

- 1.1. All complaints must be in writing. Where a complainant is unable to do this council officers will assist the complainant put their complaint into writing.
- 1.2. Written complaints should be submitted to the Monitoring Officer.
- 1.3. Within 5 working days of the receipt of a written complaint the Monitoring Officer shall:-
 - 1.3.1. write to the complainant acknowledging receipt of the complaint, informing the complainant that the subject member will be informed that a complaint has been made and the nature of the complaint and asking the complainant to specify in writing within 5 working days any reasons why the complainant believes it would not be appropriate for the subject member to be told of the identity of the complainant.
 - 1.3.2. write to the subject member informing him or her that a complaint has been made and the nature of the complaint
- 1.4. If the complainant shall within 5 working days notify the Monitoring Officer of any reasons why the subject member should not be notified of the complainant's identity the Monitoring Officer shall discuss the same with the Chairman of the Standards Committee (or if he is not available with one of the independent persons on the Standards Committee). If either considers that the reasons are not sufficient then the complainant shall be notified accordingly and shall be given 5 working days to agree to his or her name being disclosed to the subject member. Should they fail to do so then the complaint shall not be referred for investigation and the matter shall be closed. If the Monitoring Officer and the Chairman of the Standards Committee or other independent person consulted both agree that the identity of the complainant should not be made known to the subject member at that time the subject member shall be notified of that

decision and the complaint shall be considered under paragraph 1.5 below.

- 1.5. As soon as is reasonably practicable after the receipt of a complaint the Monitoring Officer shall confer personally or in writing (including e-mail) with the Chairman of the Standards Committee (or if the Chairman is not available and is unlikely to be available within a reasonable period of time with one of the independent persons on the Standards Committee) to determine whether the complaint warrants an investigation.
- 1.6. If both the Chairman of (or other independent person on) the Standards Committee and the Monitoring Officer agree that the complaint does not warrant an investigation the complainant shall be informed and the matter closed. There is no right of appeal against, or review of, such a decision save for the right of the complainant to seek judicial review in the high court.
- 1.7. If either the Chairman of (or other independent person on) the Standards Committee or the Monitoring Officer decide that the complaint does warrant an investigation the Monitoring Officer will arrange for an investigation to be carried out.
- 1.8. The criteria by which it will be determined whether to refer a case for investigation will be as follows:-
 - 1.8.1. Complaints which are not supported by sufficient information are unlikely to be referred.
 - 1.8.2. If the complaint has been investigated elsewhere further action is unlikely to be justified.
 - 1.8.3. Stale complaints are unlikely to be referred. The Standards Committee expects that complainants would normally make their complaint within six months of the relevant facts coming to light.
 - 1.8.4. Where a member who is the subject of a complaint has acknowledged the breach of the Code and made a sincere apology the complaint is unlikely to be referred unless such apology is considered to be insufficient.

1.8.5. Complaints which, if proved, are unlikely to lead to the imposition of a sanction are unlikely to be referred for investigation unless there has been a history of similar conduct or it is considered that there is a risk of repetition if there is not an investigation or some other action.

2. Investigation

- 2.1. Investigations will be carried out by the Monitoring Officer or a person appointed by him who may or may not be an employee of Uttlesford District Council
- 2.2. The object of an investigation is to ascertain the facts which underlie the complaint fairly, expeditiously and economically
- 2.3. The procedure for an investigation shall be within the discretion of the investigating officer and may include:-
 - 2.3.1. Seeking information from the complainant, the subject member, witnesses and others in writing including seeking responses to standard questionnaires
 - 2.3.2. Corresponding with the complainant, the subject member, witnesses and others
 - 2.3.3. Interviews with the complainant, the subject member, witnesses and others by telephone or in person
- 2.4. Upon the conclusion of the investigation the investigating officer shall prepare a written report setting out the facts which are agreed between the complainant and the subject member, the facts which are not agreed and the evidence of the complainant, the subject member and witnesses where there are areas of dispute
- 2.5. The investigating officer may at his or her discretion send a copy of the report in draft form to the complainant and the subject member for the purpose of allowing them to comment upon the factual accuracy thereof

3. Procedure Post Investigation

- 3.1. A sub-committee of the Standards Committee shall meet to consider the investigating officers report. The sub-committee shall:-
- 3.1.1. be comprised of 3 members of the Standards Committee to be an independent person and 2 elected members who are not both members of the same political group
 - 3.1.2. be chaired by an independent person
- 3.2. Meetings will be held in public save to the extent that the press and public may be excluded under the Council's Access to Information Rules. In normal circumstances the public interest test would not be satisfied by the exclusion of the press and public. Anyone (including the complainant, the subject member and witnesses) who wishes to contend that all or part of the meeting should be held in the absence of the press and public should make representations to that effect at an early stage to enable consideration to be given to that contention prior to publication of the agenda.
- 3.3. The complainant and the subject member shall be notified of the place date and time of the meeting at least 10 working days before the meeting is held.
- 3.4. The procedure to be adopted at meetings will be in the discretion of the chairman of the sub-committee but generally will be:-
- 3.4.1. to consider the investigating officers report
 - 3.4.2. for the subject member to be given the opportunity to ask questions of the investigating officer
 - 3.4.3. for members to ask questions of the investigating officer
 - 3.4.4. generally evidence should be written and witnesses may only be called with the permission of the Chairman of the sub-committee but where witnesses are to be called paragraphs 3.4.5 – 3.4.15 will apply
 - 3.4.5. for the investigating officer to call any witnesses (including the complainant) that he or she believes may assist the sub-committee in reaching a decision
 - 3.4.6. for the subject member to ask questions of the witnesses

- 3.4.7. for the investigating officer to ask any further questions of the witnesses by way of clarification of matters arising in response to the subject member's questions only
 - 3.4.8. for members to ask questions of the witnesses
 - 3.4.9. for the subject member to give evidence
 - 3.4.10. for the investigating officer to ask questions of the subject member
 - 3.4.11. for members to ask questions of the subject member
 - 3.4.12. for the subject member to call witnesses
 - 3.4.13. for the investigating officer to ask questions of the witnesses
 - 3.4.14. for the subject member to ask any further questions of the witnesses by way of clarification of matters arising in response to the investigating officer's questions only
 - 3.4.15. for members to ask questions of the witnesses
 - 3.4.16. for the investigating officer to make a final address to the committee
 - 3.4.17. for the subject member to make a final address to the committee
 - 3.4.18. for the legal advisor to the sub-committee to give such advice as he or she considers appropriate
- 3.5. At the conclusion of the final addresses the press and public will be excluded from the meeting pursuant to s.100I and paragraph 1 Schedule 12A Local Government Act 1972 the public interest test being satisfied in that it is desirable that members of the sub-committee should be able to have a full and frank discussion before reaching a conclusion
- 3.6. The functions of the sub-committee are:-
- 3.6.1. to determine the facts (and in so doing the members are not necessarily bound to find the facts which have been agreed)
 - 3.6.2. to determine whether such facts constitute a breach of the Code of Conduct

- 3.6.3. in the event that members determine that there has been a breach of the Code of Conduct whether it wishes to recommend to Full Council or the Leader (in the case of a cabinet member) that a sanction should be applied
- 3.6.4. Members of the sub-committee may (but are not obliged to) re-admit the press and public to announce their findings of fact and to give the investigating officer and subject member the opportunity to make further submissions as to whether the facts as found constitute a breach of the Code of Conduct. Such a course of action is only likely to be necessary when the sub-committee's findings of fact could not be reasonably been anticipated by the parties (e.g. the sub-committee find as facts matters which have not been contended for by the parties). Having heard such submissions the press and public will again be excluded whilst the sub-committee renews its deliberations.

3.7. Procedure Post the Sub-Committee Meeting

- 3.7.1. The outcome of the meeting shall be published on the Council's website unless:-
- 3.7.1.1. the press and public has been excluded from the whole of the meeting or a significant part thereof (other than for the considerations of the sub-committee) and
 - 3.7.1.2. the finding of the sub-committee is that there has been no breach of the Code of Conduct and
 - 3.7.1.3. the subject member requests at the meeting that the decision is not so published
- 3.7.2. In the event that the sub-committee has found that there has been a breach of the Code and recommends that Full Council or the Leader should impose a sanction then the matter shall be referred to the next available meeting of Full Council or to the Leader of the Council for consideration

- 3.7.3. The sanctions that the sub-committee may recommend are:-
- 3.7.3.1. that a member be censured
 - 3.7.3.2. that a member be requested to apologise in a form acceptable to the sub-committee
 - 3.7.3.3. that a member undergo training or mediation
 - 3.7.3.4. that a member's access to Council premises or use of Council resources be curtailed but not in such a way as to prevent the member fulfilling his or her functions as a councillor
 - 3.7.3.5. that a member be removed from one or more committees or outside bodies (such a sanction would require the concurrence of the member's political group if any) permanently or for a period of time
 - 3.7.3.6. that a member be removed from the cabinet (such a sanction can only be imposed by the Leader of the Council) permanently or for a period of time
- 3.7.4. There is no appeal against, or right of review of, a decision of the Standards sub-committee save for the right of an aggrieved party to seek judicial review in the high court