

TELFORD & WREKIN COUNCIL

LOCAL INVESTIGATIONS PROCEDURE

1. Introduction

This procedure applies in relation to alleged breaches of the relevant Code of Conduct where the matter has been referred to the Monitoring Officer of the Council for investigation.

2. Interpretation

2.1 'Code of Conduct' means the relevant Code of Conduct for Members of the Council and any Parish Council within the Council's administrative area including co-opted Members with voting rights.

2.2 'The Council' means Telford & Wrekin Council.

2.3 'Member' means the member of the Council or a Parish Council, who is the subject of the allegation being investigated. It also includes, where appropriate, the Member's nominated representative.

2.4 'Standards Board' means Standards for England.

2.5 'ESO' means an Ethical Standards Officer employed by the Standards for England Board.

2.6 'Monitoring Officer' means the Monitoring Officer of the Council.

2.7 'Investigating Officer' means the Monitoring Officer or his/her deputy or any other person instructed by the Monitoring Officer to conduct the local investigation including an independent external investigator.

2.8 'The Standards Committee' means the Council's Standards ~~and Audit~~ Committee, or the Committee which has terms of reference of a Standards Committee included within it. It can also refer to a sub-committee set up by the Standards Committee.

2.9 'Complainant' means the person who made the allegation being investigated.

2.10 'Democratic Services Manager' means the Council officer appointed to this post or his/her representative.

2.11 'Local Protocol' means the following Protocol, Code and Policy adopted by the Council:-

- the Member/Officer Relations Protocol
- the Members' Planning Code of Good Practice
- the Use of Council resources by Councillors Acceptable Use Policy

3. Notification of Referral

3.1 Whenever an allegation is referred to the Monitoring Officer for investigation, the Monitoring Officer shall (unless otherwise directed by the Standards Committee or by an ESO)--

- (i) Appoint an Investigating Officer, instructing him/her to conduct the investigation of the allegation. The Investigating Officer may be an officer of the authority, an officer of another local authority or an external consultant. The Monitoring Officer may instruct one of the Council's Deputy Monitoring Officer to act on his/her behalf in appointing an investigator.
- (ii) Notify the Member in writing, confirming that the allegation has been referred for investigation, outlining the conduct which is the subject of the allegation and may identify the section(s) of the Code of Conduct which appear to be relevant. The notification will also outline the procedure which will be followed and confirm the identity of the Investigating Officer if appointed at that stage.
- (iii) Write to the Complainant confirming that the allegation has been referred for investigation and outlining the procedure to be followed.
- (iv) Where the complaint concerns a member of a Parish Council, the Monitoring Officer will also write to the Clerk of the Parish Council concerned informing him/her that the allegation has been referred for investigation, outlining the procedure to be followed and asking him/her to treat the matter as confidential.

~~3.2 When notifying the Member, the Monitoring Officer (or the investigating Officer) will also request the Member to provide a response in writing to the Investigating Officer within 21 days of notification. Such a response should--~~

- ~~(i) Indicate whether the Member admits or denies the breach of the Code of Conduct which is the subject of the allegation and in so doing, identifies which (if any) of the facts set out in the notification to the Member are disputed.~~
- ~~(ii) List any document which the Member would wish the Investigating Officer to take into account in investigating the allegation, and including, where possible, copies of such documents. Alternatively,~~

~~informing the Investigating Officer where any such documents may be located/inspected.~~

- ~~—(iii) Provide the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person(s) or organisation(s) whom the Member would wish the Investigating Officer to interview in the course of the investigation.~~
- ~~—(iv) In the event that the Member wishes to appoint a representative to act on his/her behalf during the investigation, provide the name and address of any such representative and indicate whether or not further contact (including correspondence, telephone calls etc) should be directed to that representative or whether contact should continue to be maintained with the Member. Where such a representative is appointed, this will be at the expense of the Member.~~

4. Conduct of the Investigation

- 4.1 In conducting the investigation, the Investigating Officer will at all times pay due regard to the Council's obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other relevant legislation and to any relevant guidance issued by ~~the~~ Standards for England ~~Board~~.
- 4.2 If the Investigating Officer uncovers, during the course of the investigation, evidence of a possible breach of the Code which does not directly relate to the particular allegation under investigation, the Investigating Officer shall invite the person from whom the evidence was received to submit a written allegation to the Council. Where evidence of a breach of a Local Protocol (but not a breach of the Code of Conduct) is uncovered, the Investigating Officer shall report it to the Monitoring Officer.
- 4.3 The Investigating Officer may appoint any person to assist him/her in the conduct of his/her investigation and may obtain such professional advice as he/she deems necessary during the investigation process
- 4.4 The Investigating Officer will gather all appropriate information, documentation and other evidence sufficient to be able to present a report to the Standards Committee which will enable the Committee to determine whether the Member has acted in breach of the Code of Conduct. The Investigating Officer may terminate the investigation at any time if satisfied that there is sufficient information to enable such a report to be presented to the Standards Committee.
- 4.5 The Investigating Officer will ask all those who are interviewed or otherwise contacted as part of the investigation not to disclose information that they have received in confidence as part of the investigation in order to preserve the integrity of the investigation. The Investigating Officer will also remind any members involved in the investigation of their obligation under the Code of Conduct--i.e. not to disclose information that they have received in confidence.

5. Reference back from the Monitoring Officer

5.1 If, during the course of the investigation, the Investigating Officer or the Monitoring Officer concludes that it would be inappropriate to continue with the investigation, the Monitoring Officer shall then decide (having regard, where relevant, to the provisions of Reg. 16 of The Standards Committee (England) Regulations 2008) whether--

(i) an alternative Investigating Officer should be appointed; or

(ii) the matter should be referred back to the Standards Committee for re-consideration.

NOTE - Regulation 16 of The Standards Committee (England) Regulations 2008 covers 'References back from monitoring officer', and sets out circumstances when a complaint referred to a monitoring officer under section 57(2)(a) of the Local Government Act 2000 (as amended) for investigation can be referred back to the Standards Committee to provide a further assessment of the complaint in respect of new evidence or information that is available.

6. Investigation Procedure

6.1 List of Witnesses and Documents to be examined

The Investigating Officer will prepare a list of persons to be interviewed, organisations from which information is to be sought and documents which are to be inspected. This will include witnesses and documents identified by the Member, provided that the Investigating Officer is satisfied that this will assist the investigation

6.2 Production of documents, information and explanations in the course of an investigation.

The Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any documentation or information which is in their possession or control, or provide any explanation as they think necessary, for the purpose of carrying out the investigation. The Investigating Officer may require any authority concerned, other than a Parish Council, to meet the reasonable cost of providing this documentation or information. Where the authority concerned is a Parish Council, the Council may be required to meet the reasonable costs of providing the documentation or information.

6.3 Interviews in the course of the investigation.

The Investigating Officer may request any person to attend and appear before him/her to provide any information or document considered necessary for the investigation.

6.4 Telephone interviews.

The Investigating Officer will not conduct any interviews by telephone unless the express permission of the interviewee has been obtained prior to the interview. In addition, in considering the appropriateness of conducting an interview by telephone, the Investigating Officer will have particular regard to the guidance issued by ~~the~~ Standards for England~~Board~~.

6.5 **Representation.**

Any person who is called for interview by the Investigating Officer or contacted for information as part of the investigation may be represented or accompanied by, for example, a solicitor, friend or Union representative (at their own expense).

6.6 **Interview notes.**

The Investigating Officer will ensure that a note or transcript of every interview is made. Such a note or transcript must be forwarded to the interviewee as soon as practicable after the conclusion of the interview with a request that the interviewee confirms, subject to any amendments which he/she may suggest, that the note or transcript provides a fair and accurate record of the interview.

7. Completing the Investigation and Preparing the Draft Report

7.1 The Investigating Officer shall conclude the investigation when he/she believes that there is sufficient information to meet the requirements set out in 4.4 above or when he/she has obtained such information as is likely to be reasonably capable of being obtained.

7.2 The Investigating Officer shall prepare a Draft Report containing the following--

- (i) A marking of 'Draft'
- (ii) A marking of 'Confidential'.
- (iii) The date of the Report.
- (iv) The details of the allegation(s) originally made
- (v) The relevant section(s) of the Code of Conduct
- (vi) Details of the investigation process, information about the persons/organisations contacted, the way in which enquiries were made, the method and location for any interviews undertaken and confirmation as to whether payments were made in respect of expenses of those subject to the investigation
- (vii) A copy of all supporting information
- (viii) The Member's response to the allegation(s)
- (ix) Details of any person or organisation who has failed to co-operate during the investigation, and any outstanding information or documentation which has not been provided
- (x) The findings of fact (where any facts have been disputed)
- (xi) The conclusion reached by the Investigating Officer as to whether, in his/her view, there has been a breach of the Code of Conduct, with supporting reasons for reaching such conclusion.
- (xii) Confirmation that the Draft Report does not represent the final findings and that these may be subject to change in the light of comments on the Draft

8. Procedure following preparation of the Draft Report

- 8.1 The Investigating Officer shall ensure that copies of the Draft Report are sent to--
- (i) the Monitoring Officer
 - (ii) the Member
 - (iii) the Complainant

for them to submit their comments (if any) on the Draft Report by a date specified by the Investigating Officer.

9. The Final Report

- 9.1 After the expiry of the period allowed for submitting comments on the Draft Report (or any reasonable extension thereof, as allowed by the Investigating Officer), the Investigating Officer may amend the Draft Report as he/she considers appropriate and shall then produce the Final Report.

- 9.2 The Final Report must include the following:-

- (i) All of the contents required for the Draft Report, as detailed in Para. 7.2 above, with the exception of those detailed in (i) and (xii).
- (ii) Confirmation that this is the Final Report.

- 9.3 Within 5 working days of completing the Final Report, the Investigating Officer shall ensure that copies are sent to--

- (i) the Monitoring Officer
- (ii) the Member
- (iii) the Complainant
- (v) the Clerk of any relevant Parish Council

- 9.4 If the Investigating Officer has found that there has been no breach of the Code of Conduct, then his/her covering letter should explain that the Report will now be presented to the Standards Committee for consideration.

- 9.5 If the Investigating Officer has found that there has been a breach of the Code of Conduct, then his/her covering letter should explain that the matter will now be considered by ~~proceed to a hearing before~~ the Standards Committee to decide if the matter should proceed to a local hearing undertaken by the Standards Committee or whether it should be referred to the First Tier Tribunal.

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