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Lewes District Council

Arrangements for dealing with complaints about councillor conduct

These arrangements set out how you may make a complaint that an elected or co-opted member of this authority or of a Town/Parish Council in its area has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

The Council must have in place arrangements under which allegations that a member or co-opted member of the authority (or of a Town/Parish Council within the authority's area) 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, or by a member (or a member or co-opted member of a Town/Parish Council) against whom an allegation has been made.

The Code of Conduct

The Council has adopted a Code of Conduct for members, which you can find on the Council's website under ['Constitutions'](#).

Each Town/Parish Council must also adopt a Code of Conduct. If you wish to inspect a Town/Parish Code of Conduct, you should find it on the website operated by the council in question or you could ask the town/parish clerk to send you a copy.

Making a complaint

If you wish to make a complaint, please write to –

The Monitoring Officer
Lewes and Eastbourne Councils
Town Hall
Grove Road
Eastbourne
BN21 4UG

Or email committees@lewes-eastbourne.gov.uk

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The Monitoring Officer (MO) 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 which we need to be able to process your complaint, please complete and send us the complaint form which you can find [here](#).

Please 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 and your reasons in the space provided on the complaint form, and the MO will consider your request. The complaint form describes in more detail the circumstances in which it may be appropriate to withhold your identity from other parties. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

For any or all aspects of the complaint handling process, the MO may delegate his/her functions to the Deputy Monitoring Officer or to another suitably qualified officer of the authority.

Initial Assessment

The MO will review every complaint received and, after consultation with the Independent Person¹, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint.

Will your complaint be formally investigated?

The MO will assess whether your complaint **can** and **should** be formally investigated.

1. **Can** we investigate your complaint?

- Is the person you are complaining about a councillor?
- Does the complaint relate to their conduct when acting in their official capacity as a councillor?
- Does the complaint relate to something covered by the Council's Code of Conduct for Members?

¹ The Independent Person is a statutory appointment under section 28 of the Localism Act 2011, whose role includes advising the MO and the authority on matters concerning the conduct of members.

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2. **Should** we investigate your complaint?

- Is it trivial, minor, vexatious, malicious or politically motivated?
- Is there sufficient evidence to support the complaint?
- Did the alleged conduct occur in the recent past?
- Is it amenable to informal resolution?
- Would an investigation be proportionate and in the public interest?

Public interest factors would include:

- (i) the seriousness of the alleged conduct
- (ii) whether the alleged conduct appears premeditated
- (iii) the extent to which the councillor appears to have benefited from the conduct and/or the degree of harm done to the complainant
- (iv) the effect of any physical or mental condition experienced by the councillor at the time
- (v) whether the person complained about is no longer a councillor
- (vi) whether the conduct could undermine public confidence in local government and democracy
- (vii) whether the time, effort and cost of a formal investigation would be in proportion to any of the factors listed at (i) to (vii) above.

The factors at paragraphs 1 and 2 above are not intended to be exhaustive and the MO may decide that a complaint does not merit formal investigation for any other reason which appears to him/her to be relevant. The MO has discretion to refer the decision as to whether a complaint merits an investigation to the Standards Panel if it appears appropriate to do so.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. In appropriate cases, the MO 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 informal resolution, but you are not willing to accept that offer, the MO will take account of this in deciding whether the complaint merits formal investigation.

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

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Formal Investigation

If the MO decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. 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.

The Investigating Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

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.

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 MO.

A more detailed description of the investigation procedure can be found [here](#).

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

The MO will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the MO will write to you and to the member concerned, and to the Town/Parish Council, where your complaints relates to a Town/Parish councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the MO is not satisfied that the investigation has been conducted properly, he/she 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?

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The MO will review the Investigating Officer's report and will then either send the matter for a Standards Panel hearing or, after consulting the Independent Person, seek informal resolution.

Informal Resolution

The MO may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the MO will report the matter to the Audit and Standards Committee (and the Town/Parish Council if appropriate) for information, but will take no further action. However, if you tell the MO that any suggested resolution would not be adequate, the MO may refer the matter for a Standards Panel hearing.

Standards Panel Hearing

If the MO considers that informal resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the MO may report the Investigating Officer's report to the Standards Panel (a sub-committee of the Council's Audit and Standards Committee) which will conduct a 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 Standards Panel hearings](#), which in summary provides the following:

The MO will conduct a "pre-hearing 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 Panel may issue directions as to the manner in which the hearing will be conducted. 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 Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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The Panel must take into account the views of the Independent Person before it makes a decision on the alleged breach of the Code.

The Panel may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Panel concludes that the

member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Panel will then consider what action, if any, it should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

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

The Standards Panel may take one or more of the following measures in respect of a member found to have failed to comply with the Code of Conduct:

1. Publish its findings in respect of the member's conduct.
2. Write a formal letter to the member found to have breached the code.
3. Report its findings to Council or to the Town/Parish Council for information.
4. Seek formal censure through a motion at Council.
5. 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.
6. Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
7. Instruct the MO or recommend that the Town/Parish Council arrange training, mediation or other appropriate course of action, for the member.
8. Recommend to Council, or to the Town/Parish Council (if applicable), that the member be removed from some/all outside appointments to which he/she has been appointed or nominated by the authority or by the Town/Parish Council.

The Standards Panel has no power to suspend or disqualify the member or to withdraw members' special responsibility allowances.

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What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Standards Panel resolves to take.

As soon as reasonably practicable thereafter, the MO shall prepare a formal decision notice in consultation with the Chair of the Panel, and send a copy to you and to the member, and to the Town/Parish Council (if applicable), and make the decision notice available for public inspection.

Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Panel 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

There is no internal right of appeal for you as complainant or for the member against a decision of the MO or of the Standards Panel.

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.