

Standards Committee

Extract from the Constitution, Part 3, Appendix 6

Standards Committee

Constitution

Nine members of the County Council, including the Chairman and Vice-Chairman of the Council who are ex-officio Chairman and Vice-Chairman respectively. Quorum is three.

Terms of Reference

1. To promote and maintain high standards of conduct by members and co-opted members.
2. To consider complaints against any member relating to alleged breaches of the Code of Practice on Probity in Planning and the Codes of Conduct for members and officers, to make findings of fact and decisions in respect of the action to be taken and, where necessary, to make recommendations to the County Council.
3. To deal with allegations that a member or co-opted member has failed or may have failed to comply with the Code of Conduct, in accordance with the relevant provisions of the Localism Act 2011 and any relevant regulations ("the regulations").
4. To establish sub-committees to undertake the initial assessment of allegations and to conduct hearings in accordance with the procedure set out hereunder.
5. To hear appeals against the decisions of Hearings Sub-Committees which will be in the form of a complete re-hearing.
6. In cases regarded as appropriate to grant an indemnity or partial indemnity to a member for or make a contribution towards costs reasonably incurred in respect of:
 - (a) a hearing before the Hearings Sub-Committee for determination, after an investigation arranged by the Monitoring Officer; or
 - (b) a hearing of an appeal against a finding of the Hearings Sub-Committee which results in a hearing before the Standards Committee

But in any case, only to the extent that the member is found not to have breached the Code of Conduct.

7. To consider the implications for the County Council and the proper conduct of its business of the application of the Code of Conduct and to advise and bring forward modifications to the Code as appropriate.

8. To assist members to observe the Code of Conduct.
9. To oversee the implementation of the Code including, in particular, the training of members on the Code and on matters of conduct.
10. To advise the County Council on any aspects of Standing Orders relating to conduct, or otherwise on propriety including the Code of Practice on Probity in Planning, Protocol on Relationships between Members and Officers, Protocol for Use of IT Equipment Supplied to Members, Code of Practice on Publicity, Guidance on Propriety and Official Conduct for Officers and Confidential Reporting Policy (Whistle Blowing).
11. To receive for resolution any issue as to the discharge of responsibilities by any member arising from the outcome of a Disclosure and Barring Service check relating to that member and to appoint a panel of members from the Committee to determine the matter.
12. To have responsibility for reviewing monitoring and advising upon the County Council's complaints procedure including the Council's exercise of its powers to settle any claims for maladministration.
13. To appoint an independent investigating officer to investigate any charges of misconduct by the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
14. To review and adjust delegations to officers within the functions delegated to the Committee.
15. To delegate powers, when appropriate and on the recommendation of the Director of Law and Assurance, to another local authority including a borough or district borough council and to be able, subsequently, to review, amend or withdraw that delegation.
16. To make arrangements for the appointment of at least one independent person to advise the Committee, particularly on investigations into allegations that a member has breached the code of conduct, and to advise any individual member of the County Council who is the subject of a complaint under the Code of Conduct.
17. To consider a petition under the Petitions Scheme in accordance with Standing Order 3.43 (b).
18. To receive reports from and review the recommendations of the Local Government and Social Care Ombudsman in any instance where it is proposed that the recommendations are not accepted and to make a final decision on the County Council's response.

Investigation of Allegations

Assessment Sub-Committee

A sub-committee comprising three members of the Standards Committee. The sub-committee will be appointed by the Director of Law and Assurance after consultation with the Chairman, from members of the Standards Committee subject to members' availability and ensuring the make-up of the sub-committee includes at least one minority member, and, as far as possible, an even distribution of workload. The sub-committee will be discharged once its work is completed.

Terms of Reference

To make an initial assessment of a specific allegation that a member or co-opted member has failed or may have failed to comply with the Code of Conduct and determine whether:

- (a) to refer the allegation to the Monitoring Officer for investigation or other action; or
- (b) to take no action in respect of the allegation.

Pre-assessment Activity and Report

Upon receipt of an allegation against a member, the Monitoring Officer shall consider whether it is one which needs to be dealt with under this procedure, or whether it is more suitable to be dealt with under the County Council's general complaints procedure or protocols in which case he may arrange for it to be handled accordingly. The Monitoring Officer shall have discretion to seek to resolve disputes or complaints informally at any stage, including involving group leaders where appropriate to achieve conciliation.

To assist the sub-committee the Monitoring Officer shall undertake or secure such pre-assessment enquiries as he considers necessary and shall provide the sub-committee with a report summarising the allegation made and including:

- (a) whether it is within the jurisdiction of the committee;
- (b) the paragraph(s) of the Code of Conduct to which the allegation may relate;
- (c) any further information likely to assist the sub-committee.

The Independent Person (a person appointed by the County Council to advise the Standards Committee and its sub-committee, particularly on individual cases) will be consulted on the allegation and whether it could amount to a breach of the Code of Conduct. His or her views will be included in the Monitoring Officer's report and he or she may be invited to attend the meeting of the sub-committee.

Provided that neither the pre-assessment enquiries conducted by the Monitoring Officer nor the work of the Assessment Sub-Committee shall be carried out in such a way as to amount to an investigation of the allegation.

The Monitoring Officer shall, at the earliest opportunity, notify the member subject to the complaint that a complaint has been made.

Initial Tests

In assessing any allegation brought before it, the Assessment Sub-Committee must first determine whether it passes the following tests:

- (a) that the allegation is a complaint against one or more named members or co-opted members of the County Council;
- (b) that the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- (c) that the allegation, if proven, may amount to a breach of the Code of Conduct under which the member was operating at the time of the alleged misconduct.

If the allegation fails to meet one or more of these requirements it cannot be investigated as a breach of the Code, and the sub-committee will inform the complainant, through the Monitoring Officer, that no further action will be taken.

Assessment Criteria

In assessing allegations in accordance with its terms of reference the Assessment Sub-Committee shall address all relevant considerations and may ask itself whether:

- (a) there is enough information to enable the sub-committee to determine what action should be taken in respect of the allegation (and it may resolve to take no further action pending receipt of further information);
- (b) the allegation concerns someone who is no longer a member of the County Council but is a member of another authority (in which case the sub-committee may resolve to refer the allegation to the other authority);
- (c) the allegation has already been the subject of an investigation or other action (in which case the sub-committee may resolve that further action would be inappropriate);
- (d) so much time has passed since the events giving rise to the allegation that there would be little benefit in taking action now (in which case the sub-committee may resolve that further action is unwarranted);
- (e) the allegation is too trivial to warrant further action (in which case the sub-committee may resolve accordingly);
- (f) whether the allegation appears to be malicious, politically or personally

motivated and not sufficiently serious to warrant further action (in which case the sub-committee may resolve accordingly).

[NB - The Assessment Sub-Committee will only consider referring allegations made anonymously for investigation or other action if they include corroborative evidence and where the gravity of the allegation warrants it]

Initial Assessment Decision

The Assessment Sub-Committee will normally complete its assessment of an allegation and reach a decision on the action to be taken as early as possible but within 20 working days of the allegation being received by the Monitoring Officer. If it is apparent that there is likely to be any substantial delay in the sub-committee completing its work the Monitoring Officer shall advise the person making the allegation and the member who is the subject of the allegation and shall tell them when the assessment is likely to be completed.

Upon completion of its assessment, the sub-committee may decide:

- (a) to refer the allegation to the Monitoring Officer for investigation, or (subject to consultation with the Monitoring Officer), for action other than investigation* and to receive a report on the outcome within three months or such earlier time as the sub-committee may decide. In the case of investigation, the Monitoring Officer will appoint an officer other than himself or herself to investigate;
- (b) that no action is required in respect of the allegation;
- (c) whether the complainant's request for confidentiality in any notification to the subject of the complaint should be respected.

[*NB – "Action other than investigation" means arranging for any member against whom an allegation is made to attend a training course; arranging for that member and the person making the allegation to engage in a process of conciliation; and/or such other appropriate actions such as recommending changes to the procedures of the County Council if they have given rise to the complaint. If the Assessment Sub-Committee, after consultation with the Monitoring Officer, chooses this option, the Monitoring Officer shall invite the member concerned, and the party making the allegation, if appropriate, to confirm their willingness to co-operate.]

In any case, the sub-committee shall notify its decision to the person making the allegation and the member who is the subject of it within two working days.

If the sub-committee decides that no action is required the notification shall give the sub-committee's reasons for the decision.

If the sub-committee decides to refer the allegation to the Monitoring Officer its notification of that decision should not give reasons for the decision, but it will normally include a summary of the allegation.

Access to Meetings and Decision Making

Meetings of the Assessment Sub-Committee convened to assess allegations will usually include confidential personal information and, in such cases, will not be open to the public or press.

Written summaries of the proceedings of the sub-committees will be produced and made available for inspection if this would not be in breach of any duty of confidence or data protection principle.

Withdrawal of Allegations

If a person who has made an allegation to the Monitoring Officer that a member or co-opted member has failed or may have failed to comply with the Code of Conduct wishes to withdraw the allegation, the Monitoring Officer shall have discretion to allow the withdrawal, without prior consideration by the Assessment Sub-Committee, if he considers it appropriate, except in the case of an allegation of a serious nature. Where requests are considered by the Assessment Sub-Committee, in deciding whether to accede to the request, the sub-committee shall have regard to all relevant considerations including whether:

- (a) the public interest in taking some action on the allegation outweighs the wishes of the person making it;
- (b) the allegation is such that it can be investigated or subjected to other action without the participation of the person making it;
- (c) there is an identifiable underlying reason for the withdrawal request such that the request should be declined (e.g. information to suggest that the person making it may have been pressured to withdraw it).

Confidentiality

A member will usually be informed as to who has made an allegation against them. Exceptionally, however, the Assessment Sub-Committee may accede to a request for confidentiality by the person making the allegation. The sub-committee will consider any such request alongside its consideration of the substance of the allegation. In deciding whether to accede to the request, the sub-committee shall have regard to all relevant considerations including whether:

- (a) the person making the allegation has a reasonable belief that they will be at risk of harm if their identity is disclosed;
- (b) that person is an officer who has a reasonable belief that they will be adversely affected in their employment if their identity is disclosed;
- (c) that person suffers from a serious medical condition (of which medical evidence has been provided) and there are medical risks associated with their identity being disclosed.

If the Assessment Sub-Committee decides that there are reasonable grounds for

acceding to the request it will also consider whether it is possible to investigate the allegation without disclosing the identity of the person making it.

If the sub-committee refuses to accede to the request, it may give the person making the allegation the opportunity to withdraw it unless the sub-committee concludes that the public interest in proceeding with the investigation outweighs the wishes of the person making the allegation to have their identity withheld.

Local Hearing of Allegations

Hearings Sub-Committee

A sub-committee comprising at least three members of the Standards Committee. The sub-committee will be appointed by the Director of Law and Assurance to undertake a particular hearing, after consultation with the Chairman, from members of the Standards Committee subject to members' availability and ensuring the make-up of the sub-committee includes at least one minority member, and, as far as possible, an even distribution of workload. The sub-committee will be discharged once its work has been completed.

Procedure for Local Determination of Allegations of Member Misconduct by the Standards Committee or Appointed Sub-Committee

The following procedure shall apply to any hearing held by a Hearings Sub-Committee or, in the case of an appeal in accordance with paragraph 32, the Standards Committee to consider a report referred to it by the Monitoring Officer. Where an appeal is limited to certain outcomes only (such as the penalty imposed) the procedure will be adapted accordingly and with the agreement of the member.

Interpretation

1. 'Member' means the member of the County Council who is the subject of the allegation unless stated otherwise. It also includes the member's nominated representative where relevant.
2. 'Investigator' means the investigating officer, and his or her nominated representative.
3. 'Legal adviser' means the officer responsible for providing legal advice to the Committee or sub-committee. This may be the Monitoring Officer, another legally qualified officer of the County Council, or someone appointed for this purpose from outside the County Council.
4. "Committee" means the Committee or any of its sub-committees.
5. "Independent Person" means a person appointed by the County Council to advise the Standards Committee and its sub-committees, particularly on individual cases. A different Independent Person may have advised the member during the investigation process.

Representation

6. The member may be represented or accompanied during the meeting by a solicitor, counsel, or, with the permission of the Committee, another person.

Legal Advice

7. The Committee may take legal advice from its legal adviser at any time

during the hearing or while it is considering what action to take. The substance of any legal advice given to the Committee will be shared with the member and the investigator and any representative if they are present.

Introductions

8. The Chairman will introduce the members and everyone involved and will explain how the Committee is going to conduct the hearing.

Preliminary Procedural Issues

9. The Committee will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
10. The Committee will consider any request for an adjournment and, if relevant, take any decision on whether to proceed in the absence of the member.

Process of Hearing and Finding of Facts

11. The Committee will consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
12. If there is no disagreement about the facts, the Committee will move on to the next stage of the hearing.
13. If there is a disagreement, the investigator (if present) will be invited to make representations to support the relevant findings of fact in the report and may call any necessary supporting witnesses to give evidence. The Committee may give the member an opportunity to challenge any evidence put forward by or question any witness called by the investigator.
14. The member will then have the opportunity to make representations to support his or her version of the facts and may call any necessary witnesses to give evidence.
15. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by or question witnesses called by the member. It may also question the Independent Person.
16. If, during the course of a hearing, the Committee feels that it needs additional evidence, it can adjourn and request the Monitoring Officer to provide such further information or commission further investigation, but the Committee can only do so once on any one matter.
17. If the member disagrees with any relevant finding of fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it

before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the Committee will then either:

- (a) continue with the hearing, relying on information in the investigator's report;
 - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.
18. The parties will then withdraw to allow the Committee to consider the representations and evidence in private.
19. Upon the Committee's return, the Chairman will announce its findings of fact.

Did the member fail to follow the Code of Conduct?

20. The Committee will then consider whether or not, based on the facts it has found, the member failed to follow the Code of Conduct.
21. The member will be invited to give reasons why the Committee should not decide that he or she failed to follow the Code.
22. The Committee will then consider any oral or written representations from the investigator.
23. The Committee may, at any time, question anyone involved on any point raised in their representations, including the Independent Person.
24. The member will be invited to make any final relevant points but without introducing new information.
25. The parties will withdraw to allow the Committee to consider the representations.
26. Upon its return, the Chairman will announce the Committee's decision as to whether or not the member has failed to follow the Code of Conduct.

If the member has not failed to follow the Code of Conduct

27. If the Committee decides that the member has not failed to follow the Code, the Committee will move on to consider whether it should make any recommendations to the County Council.

If the member has failed to follow the Code of Conduct

28. If the Committee decides that the member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the member as to:
 - (a) whether or not the Committee should set a penalty;
 - (b) what form any penalty should take.
29. The Committee may question the investigator and member, and take legal advice, to make sure it has the information it needs in order to make an informed decision. It may also seek advice from the independent person.
30. The parties will withdraw to allow the Committee to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.
31. Upon the Committee's return, the Chairman will announce its decision.
32. If the member has been found to have breached the Code they will have the right to appeal against the findings and/or against any penalty in form of a re-hearing by the Standards Committee. Members of the original Hearings Sub-Committee will be excluded from sitting on the Standards Committee when the appeal is heard.

Recommendations to the County Council

33. After considering any oral or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the County Council, with a view to promoting high standards of conduct amongst members.

Access to Meetings and Decision Making

34. Meetings of the Committee convened to determine allegations of member misconduct will usually include confidential personal information and, in such cases, will not be open to the public or press.
35. The Committee will announce its decision on the day and provide a short written decision on that day. It will also issue a full written decision shortly after the end of the hearing. The decision will be published on the County Council's web site and in such other way as the Committee may decide.

Retention of Papers

36. All papers relating to the investigation and any hearing of an allegation under this procedure shall be retained by the Monitoring Officer until the end of a period of six years from the date of the hearing or other

conclusion of the investigation.

37. Written summaries of the proceedings of the Committee will be produced and made available for inspection if this would not be in breach of any duty of confidence or data protection principle.

Independent Panel

Constitution

A panel comprising of two or three independent persons who advise either the County Council's Standards Committee or who advise another Standards Committee. The Panel membership must be agreed 20 days prior to a meeting and will be arranged by the Director of Law and Assurance or in the case of any action against that officer, by the Deputy Monitoring Officer.

Terms of Reference

1. To investigate proposed disciplinary action against the Chief Executive, Director of Finance and Support Services or the Director of Law and Assurance.
2. To offer advice, views or recommendations to the Member Panel and the County Council on the proposed course of action, including any proposal for dismissal.