

Solihull Metropolitan Borough Council

Code of Conduct for Councillors

Complaint Process

1. Filter Stage

The Monitoring Officer receives complaint, acknowledges within 5 working days and seeks additional information/supporting evidence if required.

The complaint is considered by the Monitoring Officer in consultation with the Political Group Leader of the member complained about (if a member of a political group). Where appropriate the Monitoring Officer may also consult an Independent Person.

Where the allegation concerns matters which may amount to a criminal offence the Monitoring Officer will consult with the Police on whether the matter should be referred to them.

Options available at the filter stage are:

Complaint resolved by informal action acceptable to both member and Complainant.	No further action where complaints fall outside the Code or do not justify investigation and there is no informal resolution	Allegations of criminal matters if appropriate referred to Police	Referral for investigation if criteria are met and following consultation with Independent Person
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A complaint will only be referred for investigation if the following criteria are met:

- it is serious enough, if proven, to justify the costs of an investigation **or**
- it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it **and**
- the conduct complained of occurred within 6 months of the date the complaint was received

Complaints will not normally be referred for investigation where they fall within one or more of the following categories:

- The Monitoring Officer believes it to be malicious, relatively minor, or tit-for-tat
- the same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained
- the complaint concerns acts carried out in the member's private life, when they are not carrying out the work of the authority or have not misused their position as a member
- it appears that the complaint is about dissatisfaction with a Council decision
- there is not enough information currently available to justify a decision to refer the matter for investigation

A decision will be made by the Monitoring Officer (in consultation with the Independent Person) within 21 working days of receipt of the fully evidenced complaint.

2. Referral for investigation

The complaint is investigated by an Investigator appointed by the Monitoring Officer.

The Investigating Officer will decide whether they need to meet or speak to the Complainant to fully understand the complaint. The Investigating Officer will ask the Councillor to provide their explanation of events, and identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, the Investigating Officer may delay notifying the Councillor until the investigation has progressed sufficiently.

At the end of the investigation, the Investigating Officer will send copies of the draft report, in confidence, to the Complainant and to the Councillor, to give them both an opportunity to identify any matter which they disagree with or which they believe requires more consideration. Having received and taken account of any comments on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

The estimated timescale for the investigation will be agreed between the Investigator and Monitoring Officer on case by case basis.

Before finalising the investigation report, the Monitoring Officer will seek the views of an independent person.

3. **Report Stage:**

a) If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct:

If the Monitoring Officer (in consultation with the Independent Person) is satisfied with the investigation and findings, the Monitoring Officer will send a copy of the final report to the Complainant, the Councillor and the Parish Clerk (if appropriate) and notify them that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider their report.

The outcome of such investigations will be reported to the next meeting of the Governance Committee and the relevant parish council (if appropriate) for information.

b) If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct:

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

4. **Informal Resolution**

The Monitoring Officer may consider that the matter can be resolved without the need for a hearing. If so, he will consult with the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable/inappropriate and offering an apology, and/or other alternative action by the Council or the relevant parish council (if appropriate).

If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Governance Committee and the relevant parish council (if appropriate) for information, but will take no further action.

Where the subject member disagrees with the recommendations in the Investigators report or fails to agree to an informal resolution, the Monitoring Officer will refer the matter for hearing before a Hearing Panel comprised of any three members of the Governance Committee and advise the Complainant of the proposed hearing.

5. Hearing Stage

Hearing Panel to meet within 3 months of receipt of Investigating Officer's report.

The Hearing Panel will consider the investigation report, take account of the views of any independent person consulted in relation to the matter, hear representations from the member concerned and the Monitoring Officer. Other people may be heard at the discretion of the Chairman.

If the Hearing Panel find there is no failure to comply with the Code of Conduct the matter will end there.

If the Hearing Panel finds that there is a failure to comply with the Code of Conduct it will recommend what action if any should be taken, this may or may not include the imposition of sanctions on the Councillor concerned.

As soon as reasonably practicable, the Monitoring Officer will prepare a formal decision notice, in consultation with the Panel Chairman, and send a copy to the Complainant, the Councillor and the Parish Clerk (if appropriate). The decision notice will be made available for public inspection on the Council's website.

6. Sanctions

If the Hearing Panel recommends that sanctions should be imposed on the Councillor concerned those sanctions may be immediately implemented if accepted by the Councillor.

Where the Councillor does not accept the proposed sanctions the Hearing Panel will make recommendations to Council.

7. Appeals

There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearing Panel. If any party feels that the authority has failed to deal with a complaint properly, they may make a complaint to the Local Government Ombudsman.

8. Hearing Panel

Composition

Any three members of the Governance Committee to sit as and when required. Where possible the Hearing Panel will include representation from at least two of the political groups represented on the Council. The selection of members to form a Panel to deal with a particular matter or matters shall be made by the Monitoring Officer.

Terms of Reference

To consider complaints about members in relation to the Code of Conduct and determine whether or not there has been a failure to comply with the Code of Conduct

Where there has been a failure to comply with the Code of Conduct the Hearing Panel may impose sanctions with the agreement of the member concerned or make recommendations to Council on the imposition of sanctions.