

PROCEDURE FOR INVESTIGATIONS

Referral of Allegations

Following consideration of a complaint that a member or co-opted member (the “subject member”) has breached the Council’s Code of Conduct and, after consultation with the Independent Person, the Monitoring Officer may decide that the complaint merits formal investigation. He/she will then appoint an Investigating Officer (usually a senior member of his/her staff) and will send to that Investigating Officer the details of the complaint along with any other information considered to be appropriate.

Planning the Investigation

The Investigating Officer will keep a written record to demonstrate what was considered at the start of each investigation. This document is most likely to take the form of an investigation plan. The following areas will be covered in the plan:

- The complaint made against the subject member (together with any clarification sought from the complainant).
- The paragraph or paragraphs of the Code of Conduct that may have been breached.
- The facts which need to be determined to establish if the member breached the Code and to decide what the appropriate finding might be.
- The evidence needed by the Investigating Officer to determine the issues outlined in the plan. This will include who the Investigating Officer will need to interview, and why.
- The evidence that has been supplied by the complainant or, in the case of an investigation plan review, the evidence that the Investigating Officer has gathered.
- How the Investigating Officer plans to gather the evidence that he/she needs.
- How long the Investigating Officer thinks the investigation is likely to take him/her.

If, at any stage, in the investigative process there are significant changes to any of the above areas, an investigation plan review may need to be completed.

At the start of the investigation, the Investigating Officer will contact the complainant and the subject member to advise them of his/her contact details and provide them with a preliminary timescale for the investigation.

At the end of the investigation, the Investigating Officer will have documents which chart the approach that he/she took to the investigation, the reasons for this approach, and when the approach was changed (if appropriate). These documents will not be shared with the parties involved in the investigation.

Documentary Evidence

Documentary evidence will be sought before any interviews are conducted and at the earliest opportunity. The subject member will normally be invited to provide an initial response to the allegation in writing when written contact is first made with him/her. This will give an opportunity for the member to admit to the breach at this stage if he/she would like to do so.

Requests for information will be made in writing, even if the initial contact was made by phone. An explanation of the broad purpose for which the document is needed will be given. The detail of the complaint against the member will not necessarily be provided at this stage. Confidentiality of the process will be outlined and a deadline set for response.

Interviews

The Investigating Officer's goal in interviewing is to obtain the most informed, reliable evidence possible. It is not intended to ambush or catch out interviewees.

The subject member will normally be interviewed at the end of the investigation when all other evidence has been gathered. This will give the Investigating Officer the opportunity to put that evidence to the subject member and obtain his/her responses to it. It may also be necessary to re-interview the subject member and the complainant near the end of the investigation as this may allow the Investigating Officer to get him/her to agree facts. It will also give the interviewees an opportunity to comment on issues that have been raised during the course of the investigation, and will provide an opportunity to present potential inconsistencies to the relevant parties for comment.

Although telephone interviews may be appropriate, it is more likely that face-to-face interviews will be carried out particularly if:

- The matters involved are sensitive.
- The interviewee is vulnerable.
- Multiple documents need to be referred to during the interview.
- The interviewee wishes to have a representative present.
- The interview is with the subject member.

Joint interviews will not be conducted. An interviewee may have a friend or adviser present. That person should not be someone who is a witness and they should be asked to keep the matters confidential. If an interviewee is a vulnerable person or a minor, consideration will be given to their being accompanied by another person.

In terms of venue for face-to-face interviews, this will be somewhere that is mutually convenient, on neutral territory and where privacy can be guaranteed. Any health and safety issues will be considered in advance.

The interviewee will be provided by the Investigating Officer with information about the format and conduct of the interview.

After the interview, the Investigating Officer will draw up a draft witness statement for the interviewee and send this to him/her for amendment and/or approval. Once all the interviews have been completed, and statements obtained, the Investigating Officer will evaluate the information. He/she will review all the evidence and decide if the alleged conduct occurred. If he/she decides that the subject member did act as alleged, he/she will then consider whether their conduct involved a failure to comply with the Code of Conduct. If the Investigating Officer decides that the member has breached the Code, he/she will then consider whether there is any evidence of mitigating or aggravating circumstances.

Reports

When the investigation has been concluded, the Investigating Officer will write up his/her findings in a report to the Standards Committee. This will be in the following format:

- Title page.
- Executive summary.
- Subject member's official details.
- Relevant legislation and protocols.
- Evidence gathered and the Investigator's consideration of it.
- Summary of the material facts.
- The subject member's additional submissions.

- Reasoning as to whether there has been a failure to comply with the Code of Conduct.
- Findings.
- Schedule of evidence taken into account.
- Chronology.

A copy of the draft report will be sent to the subject member and the complainant inviting their comments by a specified date. Responses to the draft may reveal the need for further investigation or they may add nothing of relevance. If further investigation is required, this may result in changes being made to the report. If the changes are significant enough, the Investigating Officer will consider issuing a second draft and sending a copy to the subject member and the complainant for further comments. The Investigating Officer will then be able to make his/her final conclusions and recommendations.

The Final Report

Once finalised, the report will be submitted formally to the Monitoring Officer who will deal with it according to the agreed arrangements for dealing with standards allegations under the Localism Act 2011.

(Note: This procedure is intended as guidance only. When conducting an investigation, it will be for the Investigating Officer to determine how to proceed. However, any significant departure from this guidance will need to be justified).