

Broxtowe Borough Council
Arrangements for dealing with Code of Conduct complaints
under the Localism Act 2011

1. Introduction

These “Arrangements” set out how to make a complaint that an elected or Co-opted Member of Broxtowe Borough Council (“the Council”), or of a Town or Parish Council within the Borough of Broxtowe, has failed to comply with the Council’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with that Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or Co-opted Member of the Council, or of a Town or Parish Council within the Borough of Broxtowe, or of a Committee or Sub-Committee of the Council, has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.

The statutory arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or Co-opted Member of a Town or Parish Council within the Borough of Broxtowe, against whom an allegation has been made.

The Council takes seriously all Code of Conduct complaints. The investigation of complaints will be dealt with fairly for both the Complainant and the Member of the complaint.

These arrangements came into effect from 11 May 2022 and were adopted by a meeting of full Council on 13 April 2022.

2. The Code of Conduct

The Council has adopted a Code of Conduct for its Members, which is attached as Appendix C to these arrangements and available for inspection on the Council's website and on request from Reception at the Council Offices.

Each Town and Parish Council is also required to adopt a Code of Conduct. This is a matter for each individual Council to consider. If anyone wishes to inspect a Town or Parish Council's Code of Conduct, they should visit any website operated by the Town or Parish Council or request the Town or Parish Clerk to allow inspection of the relevant Code of Conduct, as the Town and Parish Council's may have adopted a different Code of Conduct than Broxtowe Borough Council

3. Definitions

The following definitions are used throughout these arrangements:

Complainant	The person who has raised the complaint. This might be a member of the public, an officer or another Member.
Member(s) being investigated	The Member against whom the complaint has been made.
Independent Person	The person appointed by the Council whose views must be sought by the Council before making a decision on an allegation, which is within the jurisdiction of the arrangements for dealing with Code of Conduct complaints.
Monitoring Officer	A senior officer of the Council who has responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.
Member	Councillor of Broxtowe Borough Council or of a Town or Parish Council within Broxtowe or a dual hatted Councillor.

Co-opted Member	A person who is not a Member of the Council but who is a Member of any committee or sub-committee of the Council, or is a Member of, and represents the Council on, any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
Sanctions	The range of actions that can be taken against a Member where it is concluded that they have failed to comply with the Code of Conduct.
Informal Resolution	Informal resolution may involve the Member being investigated accepting that their conduct was unacceptable and offering an apology, or other remedial action proposed by the Monitoring Officer.

4. Making a complaint

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

The Monitoring Officer
 Broxtowe Borough Council
 Council Offices
 Foster Avenue
 Beeston
 Nottingham
 NG9 1AB

or email: membercomplaints@broxtowe.gov.uk

In order to ensure that the Monitoring Officer has all the information which is needed to be able to process a complaint, the correct Member Code of Conduct complaint form (Appendix B) should be completed. The form can be downloaded from the Council's website www.broxtowe.gov.uk under [Member complaints](#) and is available on request from reception at the Council Offices or from the Monitoring Officer. If you decide not to use the Member complaint form, you must still provide all of the information requested within it, otherwise we will not be able to progress your complaint until this information is provided.

Help to complete the form or to make a written Member complaint is available by contacting the Monitoring Officer on 0115 917 3221 or by emailing membercomplaints@broxtowe.gov.uk.

Under the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint. We can also help you if English is not your first language.

Parish and Town Councils as employers should have processes in place to ensure the fair and proper treatment of staff. Complaints about the conduct of a Parish or Town Members towards a Clerk should be made by the chair or by the Parish or Town Council as a whole, rather than the Clerk in all but exceptional circumstances.

A Complainant will be required to provide their name, a contact address and where possible, an email address, so that the complaint can be acknowledged and the Complainant kept informed of progress.

The Monitoring Officer will acknowledge receipt of a complaint within 3 working days of receiving it and the Complainant will be kept informed of the progress of the complaint.

5. Complaints against 'Dual Hatted' Members

A 'dual hatted' Member is a Member of a Council and who is also a Member of another Council within the County. The Member could be a serving County Councillor, Fire Authority Councillor, District Councillor and Town or Parish Councillor.

Complaints against Members are received by the Monitoring Officer for and on behalf of the Council. The Monitoring Officer will consider whether:

- The complaint relates to a 'dual hatted' Member;
- The complaint clearly relates to incidents or circumstances which have occurred solely in that Member's capacity as a Councillor of the Council;
- That no other countywide Council is involved; and
- That the conduct or actions complained of relate to possible failure to comply with the Member Code of Conduct.

If so, the complaint shall be processed by the Monitoring Officer in accordance with these adopted arrangements for dealing with Member complaints.

Where the complaint relates to:

- A 'dual hatted' Member;
- In the view of the Monitoring Officer the complaint may impact on the capacity of the Member as a Member of another Council;
- The complaint may relate to incidents or circumstances which have occurred in the Member's capacity as a Councillor of the Council and of another Council;
- The conduct or actions complained of relate to a possible failure to comply with the Member Code of Conduct; and / or
- The complaint or a similar complaint may also have been received by another Council, the Monitoring Officer shall refer the Complainant to any additional Council that could process the complaint and continue to deal with the relevant aspects of the case to be dealt with under the arrangements adopted by the Council.

6. Confidentiality

As a matter of fairness and natural justice, the Member being investigated should be told who has complained about them. There may be occasions where the Complainant requests that their identity is withheld. Such a request may be granted only in circumstances that the Monitoring Officer considers to be exceptional, for example:

- a) The Complainant suffers from a serious health condition, which may be adversely affected if their identity is disclosed.
- b) The Complainant has reasonable grounds for believing that they will be at risk of intimidation, victimisation or physical harm if their identity is disclosed.
- c) The Complainant is an officer who works closely with the Member being investigated and they are afraid of the consequences to their employment if their identity is disclosed.

This is not intended to be an exhaustive list.

If the Monitoring Officer decides to refuse a request by the Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with disclosure of the Complainant's identity. If the Complainant

withdraws the complaint their identify and the nature of the complaint will not be shared with the Member being investigated.

If, however the Monitoring Officer considers that disclosure of details of the complaint to the Member being investigated might prejudice the investigation, the Monitoring Officer can agree to delay notifying the Member being investigated until consideration of the complaint has progressed sufficiently. Any such decision to withhold details of the complaint should be taken only where the Monitoring Officer considers that exceptional grounds exist which make this necessary.

The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

7. Conflict of Interest

Where the Monitoring Officer considers they may have a conflict of interest, for example, as a result of a close professional relationship with the Member being investigated, the Monitoring Officer will pass the complaint to the Deputy Monitoring Officer to deal with. Where the Deputy Monitoring Officer similarly has a conflict of interest, arrangements may be made for a Monitoring Officer from another local Council in Nottinghamshire to oversee and manage the complaint.

8. What will happen to the complaint?

There are 4 stages to dealing with complaints that are received as detailed below.

Opportunities are provided throughout these arrangements to enable informal resolution between the Complainant and the Member being investigated.

The Complainant can at any time request to withdraw a complaint, however the Monitoring Officer may decide that it remains in the public interest to continue to pursue the complaint through the process.

Stage 1 – Initial Intake Test and Initial consideration of complaint

The Monitoring Officer will review every complaint received against the assessment criteria attached at Appendix A. If the complaint fails one or more of the initial intake tests (set out in the assessment criteria) the complaint will not be progressed. The Complainant will be informed that the complaint has been rejected and No Further Action will be taken, with the exception of complaints which fall under 7 and 8 above, which may be progressed for assessment after the date the other process has been completed or after the election.

If the complaint passes the initial intake test the Monitoring Officer will normally inform the Member being investigated (unless the exceptions set out in section 6 above apply) of the complaint within 5 working days of receiving the fully completed complaint form, or if the complaint form is not used, on receiving all the information requested within the complaint form in writing.

The Member being investigated will be invited to send their written comments within 7 working days (or such longer or shorter period as the Monitoring Officer may agree) and the Member being investigated will be notified of their right to consult the Independent Person. At the same time the Monitoring Officer will write to the Independent Person with details of the allegations so that they may be aware of the nature of the complaint in case the Monitoring Officer or the Member being investigated wishes to consult the Independent Person at this stage. The written representations from the Member being investigated will be taken into account when deciding how the complaint will be dealt with.

Subject to the exception set out in the next paragraph, the Monitoring Officer will always seek informal resolution in the first instance. If this resolves the matter, the Monitoring Officer will formally write to the Complainant and the Member being investigated.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint refers to failure to comply with the requirement to register a disclosable pecuniary interest, then the matter will be referred direct to the Police (Localism Act, Chapter 20 Part 1, Chapter 7, Section 34 – Offences).

When the Member being investigated is provided with details of the complaint they should keep this matter confidential, save that:

- a) They may disclose all or any part of the complaint to their group Leader
- b) They may disclose all or any part of the complaint to their professional association for the purposes of obtaining advice

- c) They may disclose all or any part of the complaint to their solicitors for the purposes of obtaining legal advice
- d) The group leader may nominate another Councillor to act as support for the Member being investigated, and any or all details of the complaint may be disclosed to that Councillor. Any Councillor who is appointed as a supporter by their group Leader should keep the material they receive confidential.

Complainants are asked to treat the complaint confidential whilst the matter is being investigated.

Stage 2 – Formal consideration of complaint

If informal resolution is not achieved, or not considered appropriate, the Monitoring Officer will consult with the Independent Person before progressing with the complaint.

The Monitoring Officer will then take a decision as to whether the complaint merits investigation.

This decision will normally be taken within 10 working days of the conclusion of stage one. When the Monitoring Officer has taken a decision, they will inform the Complainant and the Member being investigated in writing of their decision and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, they may go back to the Complainant for such information, and may request information from the Member being investigated. Where the complaint relates to a Town or Parish Councillor, the Monitoring Officer may also seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

In circumstances where the provision of this information leads to the time period for the compliance with this stage being extended the Monitoring Officer should, notify the Complainant and the Member being investigated of the period required to make a decision on this stage.

The Monitoring Officer may again seek to resolve by informal resolution, without the need for a formal investigation. If this resolves the matter, the Monitoring Officer will

formally write to the Complainant and the Member being investigated to confirm that the matter is closed.

Where the Member being investigated makes a reasonable offer of informal resolution, the Complainant will be asked for their views but if they are not willing to accept the informal resolution offered, the final decision will be the Monitoring Officer's, in consultation with the Independent Person, who will take account of this in deciding whether the complaint merits formal investigation.

In reaching their decisions on the complaint at Stages 1 and 2 the Monitoring Officer and the Independent Person will need to consider the assessment criteria outlined at Appendix A.

Stage 3 - Investigation

The following procedure will be used for the investigation of misconduct complaints.

Investigating Officer

If the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator. The Monitoring Officer may also write to the Town or Parish Council and ask them to produce a statement report providing supporting evidence, statements, information and copies of relevant documentation. The Investigating Officer should normally be appointed within 7 working days of the decision being taken that the complaint merits investigation at this stage. The identity of the Investigating Officer should be notified to the Complainant and the Member being investigated in writing as soon as they are appointed.

The investigation process

The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the complaint, to gain an understanding of events, to decide what additional documents need to be seen, and who else needs to be interviewed.

The Investigating Officer will write to the Member being investigated again and (unless the exception in section 6 still applies) provide them with a copy of the complaint, and ask the Member to provide their explanation of events, to identify what documents the Investigating Officer needs to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer may delete their name and address from the papers given to the Member being investigated, or delay notifying the Member until the investigation has progressed sufficiently.

The Investigating Officer should complete their investigation as soon as possible and where possible within 20 working days. If the Investigating Officer is not able to complete their investigation within that time they should write to both the Complainant and the Member being investigated to explain the reason for the delay and to give them a new target date for the completion of the investigation.

The investigation report

At the end of their investigation and within 10 working days thereafter, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Member being investigated, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. The Complainant and Member being investigated should respond within 7 working days. The Investigating Officer should within 7 working days of having received and taken account of any comments which they may make on the draft report, will send their final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Complainant and the Member being investigated and give all a copy of the Investigating Officer's final report within 7 working days. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report within 10 working days. If an extension to this time is required throughout the investigation process, the Complainant and Member being investigated will be informed.

Conclusion – no failure to comply

If the report concludes that there is insufficient evidence to make a finding for a failure to comply with the Code of Conduct, and the Monitoring Officer is satisfied with the content of the report, then all relevant parties (the Complainant, Member being investigated and the Independent Person) will be notified in writing and the matter will be closed.

Conclusion – failure to comply

If the report concludes that there is sufficient evidence to make a finding that there has been a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then consult with the Independent Person. The Monitoring Officer will again seek informal resolution, however if this does not resolve the matter, the complaint will be listed for a hearing before the Standards Hearing Sub Committee.

Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult with the Independent Person, the Complainant and with the Member being investigated and seek agreement on what is considered 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 their conduct was unacceptable and offering an apology, and/or other remedial action considered appropriate by the Monitoring Officer or the Standards Hearing Sub Committee. If the Member complies with the suggested resolution, the Monitoring Officer will take no further action. The Monitoring Officer's decision is final.

Stage 4 –Standards Hearing Sub Committee

If the report concludes that there has been a failure to comply and the Monitoring Officer considers that informal resolution is not appropriate or that informal resolution has failed to resolve the matter the Monitoring Officer in consultation with the Chair (in their absence Vice Chair) of the Governance, Audit and Standards Committee will convene a Standards Hearing Sub Committee. The Monitoring Officer will report the Investigating Officer's report to the Standard Hearing Sub Committee, which will conduct a local hearing before deciding whether the Member being investigated has

failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the breach.

The Standards Hearing Sub Committee

The Standards Hearing Sub Committee will comprise of 5 elected Members . The Standards Hearing Sub Committee should, at all times, be advised by the Monitoring Officer or their representative. The Standard Hearing Sub Committee meeting should be convened as soon as possible and where possible within 20 working days of the Monitoring Officer announcing their decision that such a meeting is necessary.

The Independent Person is invited to attend all hearings by the Standards Hearing Sub Committee and their views are sought and taken into consideration before the Standards Hearing Sub Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any recommended action to be taken following a finding of failure to comply with the Code of Conduct.

Hearings will usually be held in public, unless there are exceptional reasons for it not being, in accordance with section 6 above.

Procedures for Hearings

At least 5 working days prior to the meeting of the Standards Hearing Sub Committee the Monitoring Officer will ask the Member being investigated to identify in writing what aspects of the Investigating Officers report are accepted and what are in dispute. The purpose of this is to identify what is likely to be agreed and what is likely to be in contention at the hearing. In addition, the Chair (or in their absence the Vice Chair) of the Standards Hearing Sub Committee may issue directions as to the manner in which the hearing will be conducted, but before doing so will give the Member being investigated the opportunity to make representations on any proposed directions. Any directions given will be for the purpose of ensuring a fair and effective hearing.

At the hearing, the Investigating Officer will present their report, call such witnesses, as they consider necessary and make representations to substantiate their conclusion that there is evidence that the Member being investigated has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Standards Hearing Sub Committee. The Member being investigated will then have an opportunity to give their evidence,

to call witnesses and to make representations to the Standards Hearing Sub Committee, as to why they consider that they did not fail to comply with the Code of Conduct. The Member being investigated, the Investigating Officer, the Monitoring Officer (or their representative(s) directly through the Chair of the Standards Hearing Sub Committee will have the opportunity to ask questions of any witness called by the other party. The Standards Hearing Sub Committee can also question witnesses.

Although, the meeting will be in public unless exceptional circumstances arise the discussion of the Standards Hearing Sub Committee, as to what conclusion they reach will be in private. The Standards Hearing Sub Committee may be assisted by an administrative officer (usually the Monitoring Officer and the Independent Person) but the Investigating Officer and the Member being investigated must not be present during those discussions.

In reaching a decision the Standards Hearing Sub Committee will reach a decision by majority vote, with the material being evaluated on the balance of probabilities.

Conclusion – no failure to comply

The Standards Hearing Sub Committee, with the benefit of any advice from the Monitoring Officer and the Independent Person, may conclude that the Member being investigated did not fail to comply with the Code of Conduct, and so dismiss the complaint.

Conclusion – failure to comply

If the Standards Hearing Sub Committee, concludes that the Member being investigated did fail to comply with the Code of Conduct, the Chair will inform the Member being investigated of this finding and Standards Hearing Sub Committee will then consider what action, if any, it should take or recommend as a result of the Member's failure to comply with the Code of Conduct.

In doing this, the Standards Hearing Sub Committee will give the Member being investigated an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

The announcement of the conclusion reached by the Standards Hearing Sub Committee must be in public, as will the opportunity for the Member being investigated

to make any representations, if necessary. However, the decision as to what sanction to recommend must be in private. Neither the Investigating Officer nor the Member being investigated must be present during those discussions.

At the end of the hearing, the Chair will state the decision of the Standards Hearing Sub Committee, as to whether the Member being investigated failed to comply with the Code of Conduct and as to any actions which the Standards Hearing Sub Committee resolves to take or recommend. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Hearing Sub Committee, and send a copy to the Complainant, to the Member being investigated and to the Town or Parish Council where applicable. The Decision Notice will be made available for public inspection through the Council website.

9. Sanctions

The Council has delegated to the Monitoring Officer and to the Standards Hearing Sub Committee, such of its powers to recommend action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Monitoring Officer and Standards Hearing Sub Committee may:

1. Publish its findings in respect of the conduct of the Member being investigated;
2. Report its findings to the relevant Town or Parish Council, if appropriate;
3. Report its findings to Council for information;
4. Recommend to Council that the Member being investigated be censured for the breach of the Code of Conduct;
5. Recommend to the group Leader that the Member being investigated be removed from any or all Committees or Sub-Committees of the Council;
6. Recommend to the Leader that the Member being investigated be removed from Cabinet, or removed from particular Portfolio responsibilities;
7. Recommend to Council that the Member being investigated be removed or any Chair or Vice-Chair that he or she holds;
8. Recommend to Council that the Leader or Deputy Leader be removed from Cabinet or removed from particular Portfolio responsibilities;

9. Instruct the Monitoring Officer to [or recommend that the Town or Parish Council] arrange training for the Member being investigated;
10. Recommend to Council to remove [or recommend to the Town or Parish Council that the Member being investigated be removed] the Member being investigated from any or all outside appointments to which they have been appointed or nominated by the Council [or by the Town or Parish Council].
11. Remove [or recommend to the Parish or Town Council concerned that it removes] the Member being investigated from the Council's Offices or other premises with the exception of meeting rooms, as necessary for attending Council, Cabinet, Committee and Sub-Committee Meetings; at the discretion of the Standards Hearing Sub Committee for a maximum of 12 months.

NB. There is no power to suspend or disqualify the Member or to withdraw a Member's basic or special responsibilities allowance. Although, basic or special responsibility allowance will not be paid if the Member is no longer entitled, as a result of being removed from the Cabinet, portfolio responsibilities, committee, Chair or Vice Chair position.

10. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement, and is then appointed by a positive vote from a majority of all the Members of Council. The Localism Act 2011 sets a number of criteria for the recruitment of the Independent Person and these can be found on Part 1, Chapter 7, Section 28.

Any changes to the appointment of the Independent Person must be in line with the recruitment processes outlined in the Localism Act 2011 and agreed by a positive majority of full Council.

11. Failure to co-operate with the complaint process

Failure by the Complainant or Member being investigated or witnesses to take part in the complaint process will be taken into consideration throughout the assessment and investigation stages. If the Complainant, Member being investigated or witnesses fails to respond to requests for information throughout the process, one reminder will be sent in the interest of fairness to allow for this information to be provided. If there is still no response the complaint will be progressed without any further delay.

The Monitoring Officer or their representative and or investigation may exercise their discretion to allow a further opportunity to respond, if they consider exceptional circumstances apply.

12. Revision of these arrangements

The Chair of the Standards Hearing Sub Committee may, following consultation with the Monitoring Officer and Independent Person, depart from the procedures detailed herein where he/she considers it is necessary to do so in order to secure the effective and fair consideration of any matter.

The Council may by resolution agree to amend these arrangements.

13. Appeals

There is no right of appeal either as the Complainant or the Member being investigated against a decision of the Monitoring Officer or their representative or of the decision of the Standards Hearing Sub Committee.

If it is felt that the Council has failed to deal with the complaint properly, you may make a complaint to the Local Government Ombudsman (www.lgo.org.uk).

14. “In Writing”

Any requirement in these arrangements that information is provided in writing may be satisfied by that information being provided electronically, unless there is an Equality Act reason for the information to be in a physical form.

ASSESSMENT CRITERIA

In reaching their decisions on the complaint at Stage 1 and 2 the Monitoring Officer (or substitute decision makers specified under section 7 'conflict of interest' provisions) and the Independent Person will need to consider the following assessment criteria:

Stage One: Initial Intake Test:

The Monitoring Officer must be satisfied that the complaint meets the following requirements: -

1. The complaint is against one or more named Member or Co-opted Member of the Council or a Parish or Town Council within their jurisdiction;
2. The named Member or Members were in Office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
3. The named Member or Members were acting in their official capacity when the alleged conduct took place.
4. The Complainant has given their name and contact details (unless the Monitoring Officer considers there is a clear public interest in proceeding with the anonymous complaint)
5. The complaint is an allegation under the Code of Conduct rather than dissatisfaction of a Council's service, decision or a statement of policy disagreement.
6. The complaint is about events that occurred within the last 3 months unless the Monitoring Officer considers there are exceptional grounds for the delay presented by the Complainant when submitting the complaint.
7. The complaint is not being dealt with by the police, Ombudsman or another complaint process (in this case the complaint will not be assessed until after the other process has been completed).

8. The complaint is not being made about the Member or Co-opted Member within 6 weeks prior to an election day (if the complaint is within the 6 week period the complaint will not be assessed until after the election outcome has been announced).

If the complaint fails one or more of these tests it will not be progressed and the Complainant will be informed that the complaint has been rejected and No Further Action will be taken, with the exception of complaints which fall under 7 or 8 above, which may be progressed for assessment after the date the other process has been completed or after the election.

The Member being complained of will normally be informed of the complaint, subject to the Complainant providing consent to share their complaint.

Onward referrals:

The Monitoring Officer will advise the Complainant if their complaint needs to be referred elsewhere eg when:

- a) The complaint is alleging conduct relating to election/political campaigning activities as these are outside the remit of the Members Code of Conduct and will not be assessed for further action. Potential election offences should be reported to the Police or the Electoral Commission.
- b) Complaints allege that Members may have committed a criminal offence in breaching the “disclosable pecuniary interest” provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Nottinghamshire Police for consideration.
- c) Complainants will be redirected to the whistling blowing policy where considered necessary.

This list is not exhaustive.

STAGE 1 and STAGE 2 considerations:

The Monitoring Officer and Independent Person (or substitute decision makers specified under section 7 'conflict of interest' provisions) will consider the following when considering what action to take in respect of the complaint:

1. The extent to which the Member being investigated is alleged to have failed to treat others with respect;
2. Whether the allegations relates to bullying, harassment, intimidating or attempting to intimidate a person involved in an allegation against a Member being investigated;
3. Whether in disclosing confidential information the Member being investigated failed to take or to heed advice;
4. The implications for the public perception or the reputation of the Council;
5. Whether the continuing pattern of behaviour being complained about is likely to bring the Council into disrepute, and or significantly and unreasonably disrupts the business of the Council, and there is no appropriate alternative informal resolution other than to investigate.
6. The implications of the misconduct on staff relations and other Members;
7. The seniority or position of influence of the Member being investigated and public trust or confidence;
8. The extent to which the Member being investigated is alleged to have acted in a way that may cause the Council to breach an equality enactment;
9. The consequences or the likely consequences of the Members being investigated alleged actions;
10. The extent to which the Member being investigated is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
11. The extent to which the Member being investigated is alleged to have misused or abused the resources of the Council;
12. The detriment caused by acting against advice when reaching decisions;
13. The extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;

14. Whether the matter of the complaint has already been the subject of a previous investigation or of an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor, or the subject of proceedings in court;

A DECISION TO TAKE NO FURTHER ACTION

Reasons for taking No Further Action include:

1. That the subject matter of the allegation is outside the jurisdiction of the Standards Hearing Sub Committee; eg the complaint is an allegation about dissatisfaction of a Council's service, decision or a statement of policy disagreement or breach of the standing orders etc.
2. That the allegation does not appear to disclose a failure by the Member to comply with the Member's Code of Conduct when acting in that capacity;
3. Whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than 3 months prior to the date of the complaint or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.
4. The matter of complaint or a substantially similar allegation has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in court and there is nothing more to be gained by a further action being taken.
5. Whether the complaint appears to be simply malicious, vexatious, politically motivated, relatively minor, too trivial, insufficiently serious or tit-for-tat to warrant further action.
6. Where the resources needed to investigate are wholly disproportionate to the allegations and or there is no overriding public interest in carrying out an investigation. Public interest is regarded as 'something which is of serious concern and benefit to the public'.
7. Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
8. The information submitted by the Complainant is insufficient to enable the Monitoring Officer and the Independent Person to come to a firm conclusion on the matter and as such it is unlikely that an investigation will be able to come to a firm conclusion on the matter and or where independent evidence is likely to be difficult or impossible to obtain.

9. It is considered that the Member being investigated has offered a satisfactory remedy to the Complainant (for example by apologising).
10. Whether the Monitoring Officer considers the matter is suitable for informal resolution and the Member being investigated is amenable to such an approach.
11. The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.
12. The complaint is anonymous; The Monitoring Officer will not usually investigate anonymous complaints unless there is a clear public interest in doing so.