

**Procedure for Assessment and Investigation of Complaints that
Councillors have breached the Worcester City Council
Code of Conduct for Members**

1. Introduction

This procedure is only to be used for the assessment and investigation of complaints of alleged failures by councillors to comply with the Council's Code of Conduct for Members.

2. Making a complaint

Complaints should be made in writing to the Monitoring Officer.

3. Initial assessment of complaint

On receipt of a complaint, the Monitoring Officer will notify the Subject Councillor that a complaint has been received (unless the Monitoring Officer considers that it would be contrary to the public interest or would prejudice the consideration of the complaint to do so). The Monitoring Officer will also notify the Chairman and the Vice Chairman of the Standards Committee that a complaint has been received.

The Monitoring Officer will make an initial assessment of the complaint within 20 working days of receipt of all relevant information to enable an initial assessment to be made. In making an initial assessment, the Monitoring Officer shall consult with an Independent Person.

Having carried out an initial assessment of a complaint, the Monitoring Officer will decide on one of the following courses of action:

- Decide to take no action
- Decide that the Monitoring Officer shall resolve the complaint informally
- Decide to refer the complaint for investigation

4. Decision to take no action

Where the Monitoring Officer decides to take no further action in respect of the complaint, the Complainant and the Subject Councillor shall be advised of that decision in writing.

5. Decision to resolve complaint informally

Where the Monitoring Officer decides to resolve the complaint informally, the Complainant and the Subject Councillor shall be advised of that decision in

writing. In deciding to resolve the complaint informally, the Monitoring Officer may pursue any of the following courses of action:

- Provide further training and guidance to the Subject Councillor
- Mediate between the Complainant and the Subject Councillor
- Require the Subject Councillor to write a personal apology to the Complainant
- Write an advisory letter to the councillor

If informal resolution is able to resolve the complaint, then no further action is required.

Where informal resolution does not resolve the complaint, the Monitoring Officer may, following consultation with the Independent Person, decide to refer the complaint for investigation.

6. Decision to investigate complaint

Where the Monitoring Officer decides to refer the complaint for investigation, the Complainant and the Subject Councillor shall be advised of that decision in writing. The Monitoring Officer shall also advise the Chairman of the Standards Committee that a complaint has been referred for investigation.

Where the Monitoring Officer decides to refer the complaint for investigation, the Subject Councillor shall be provided with the details of an Independent Person who will provide guidance on the process for investigation of the complaint. The Independent Person shall be a different Independent Person to the one that the Monitoring Officer has previously consulted with.

Within 14 days of deciding to refer the complaint for investigation, the Monitoring Officer shall appoint an Investigating Officer to investigate the complaint. The Investigating Officer may be an officer of the Council, an officer of another local authority, or an external person.

7. Investigation of complaint

The Investigating Officer shall be instructed to investigate the complaint and to report to the Monitoring Officer. The Investigating Officer shall carry out an investigation. The purpose of the investigation is to establish the facts of the case and to form a view on whether there has been a breach of the Members Code of Conduct.

The Complainant and the Subject Councillor shall cooperate fully with the Investigating Officer, including attending any meetings or interviews and providing all relevant information and documents to the Investigating Officer.

The Subject Councillor may be accompanied by a friend or an adviser when attending any meeting or interview as part of the investigation of the complaint.

The Investigating Officer may pursue any of the following actions as part of the investigation:

- Interviewing the Complainant
- Interviewing the Subject Councillor
- Interviewing other relevant witnesses
- Requesting copies of any documents relevant to the investigation

The Investigating Officer shall produce a draft report of his findings and send a copy to the Monitoring Officer, the Complainant and the Subject Councillor. The Investigating Officer shall allow 14 days for comments on the draft report and shall take any comments into consideration when producing the final report.

If during the course of the investigation, the Investigating Officer identifies other breaches of the Code of Conduct the Monitoring Officer shall be advised accordingly.

The Investigating Officer shall endeavour to complete the investigation within 2 months of appointment.

The Investigating Officer shall send a copy of the final report to the Monitoring Officer. The report shall include copies of any statements or documents obtained during the course of the investigation.

8. Post investigation procedures

Where the Investigating Officer concludes that there has not been a breach of the Code of Conduct, the Monitoring Officer shall take no further action and the Complainant and the Subject Councillor shall be advised of that decision in writing.

Where the Investigating Officer concludes that there has been a breach of the Code of Conduct, the Monitoring Officer shall refer the report to the Hearings Sub-Committee for consideration.

9. Hearings Sub-Committee

Where a Hearings Sub-Committee is required the procedure for the hearing set out in the Appendix to this procedure shall apply.

The Hearings Sub-Committee shall have the power to decide whether or not to impose a sanction where there has been a finding of a breach of the Code of Conduct for Members.

The Hearings Sub-committee may decide not to impose a sanction or it may impose one or more of the following sanctions.

- The Monitoring Officer to send a formal letter to the Subject Councillor.
- The Subject Councillor to make a public apology at Full Council. In the event of an apology not being made, the Subject Councillor may be censured at a meeting of the Full Council.
- The Monitoring Officer to provide further training and guidance to the Subject Councillor.
- The Subject Councillor to write a personal apology to the Complainant.
- A recommendation to the relevant Group Leader that the Subject Councillor should not sit on a particular Committee (or sub-Committee or Working Group) for a period of time and for the relevant Group Leader to appoint a temporary replacement to the relevant committee.

Appendix

Hearings Sub-Committee procedure

1. Terms of Reference

The Hearings Sub-Committee is responsible for considering reports of an investigating Officer into complaints that there has been a breach of the Worcester City Council Code of Conduct. The hearing shall be conducted in private in accordance with this procedure.

2. Membership

A Hearings Sub-Committee shall consist of three City Councillors (wherever possible from different political groups). The Hearings Sub-Committee shall be advised by the Monitoring Officer, who will be accompanied by the Independent Person. The Independent Person will advise the Monitoring Officer.

3. Procedure

- The Chairman introduces the Sub-committee and any other persons present, including the Monitoring Officer, the Independent Person, the Investigating Officer and a Committee Officer.
- The Subject Councillor introduces any person who is acting as his or her representative and any witnesses to be called on his or her behalf.
- The Chairman shall explain the procedure that shall be followed.
- The Investigating Officer is invited to present his/her report and to call any witnesses.
- The Subject Councillor may ask questions of the Investigating Officer and/or any witnesses which are to be put through the Chairman.
- The Members of the Sub-committee may ask questions of the Investigating Officer.
- The Subject Councillor is invited to respond to the Investigating Officer's report and to call any witnesses.
- The Investigating Officer may ask questions of the Subject Councillor or any witnesses which are to be put through the Chairman.
- The Members of the Sub-committee may ask questions of the Subject Councillor.
- The Chairman may request advice from the Monitoring Officer.

- The Sub-committee shall adjourn to consider whether there has been a breach of the Members Code of Conduct. The Sub-committee may request the presence of the Committee Officer during their deliberations.
- The Sub-committee shall reconvene to deliver its decision verbally.
- If the Sub-committee decides that there has been a breach of the Code of Conduct then the Sub-committee shall consider whether a sanction should be imposed.
- The Chairman shall invite representations from the Investigating Officer as to whether a sanction should be imposed.
- The Chairman shall invite representations from the Subject Councillor as to whether a sanction should be imposed.
- The Chairman shall ask the Monitoring Officer if he/she wishes to express an opinion as to whether a sanction should be imposed.
- The Sub-committee shall adjourn to consider whether to impose a sanction. The Sub-committee may request the presence of the Committee Officer during their deliberations .
- The Sub-committee shall reconvene to deliver its decision in respect of a sanction verbally.
- The Chairman will explain that written notice of the decision and the reasons for it shall be sent to all parties within 14 days of the date of the hearing.
- The Chairman will formally close the hearing.