

BRISTOL CITY COUNCIL
DRAFT AMENDED PROCEDURE FOR DEALING WITH
COMPLAINTS ABOUT BREACHES OF THE CODE OF CONDUCT

1. Introduction

1.1 Under the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct for its elected and co-opted members and have arrangements in place to deal with complaints.

1.2 This Procedure sets out how the Council will deal with a complaint alleging a breach of the Members' Code of Conduct by Bristol City Councillors and voting and non-voting co-opted members of the Council.

1.3 In dealing with complaints we will be fair to both the complainant and Member and progress matters in accordance with the timescales set out in the Procedure. Complaints will be handled in the strictest confidence at all times.

1.4 The Council has a duty to ensure there is no conflict of interest with officers when undertaking standards investigations. If a conflict of interest is identified, it will be determined in consultation with the Independent Person whether the matter should be dealt with by an alternative Monitoring Officer.

1.5 The Council has a clear and straightforward public interest test, which considered by the Monitoring Officer when considering complaints.

2. Monitoring Officer

2.1 The Director of Legal and Democratic services is the Council's Monitoring Officer. This is a statutory role, responsible for ensuring that the Council, its Members and officers carry out their functions in a lawful and ethical manner. The role includes supporting the Audit and Values and Ethics Committee.

3. Independent Persons

3.1 The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. This is statutory requirement under S28 of the Localism Act 2011.

3.2 The Independent Person must be consulted at various stages in the complaints process:

The Independent Person should be consulted on an allegation and should be given the option to review and comment on

1. allegations which the Monitoring Officer is minded to dismiss as being malicious, without merit, vexatious or trivial.
2. whether to undertake a formal investigation.

3.3 An elected Member who is the subject of a Standards Complaint is entitled to process / procedural advice from an Independent Person, and any request shall be made via the Monitoring Officer.

4. Making a Complaint

If you would like to make a complaint about a Councillor or co-optee of Bristol City Council you must complete the [Complaint Form](#) (Appendix A) and provide relevant

evidence to substantiate your allegation(s). The form is also available from the Monitoring Officer or Head of legal services at: Legal.support@bristol.gov.uk
(The Monitoring officer will accept complaints in other formats but they must be in writing.)

The Monitoring Officer will review all complaints received.

There are some instances where it is not appropriate to complain through this complaints process - for example :-

- About people employed by the Council or a decision made by an Officer of the Council
- The way the Council conducts or records its meetings.
- The way the Council has or has not done something. This might be a matter for the Local Government Ombudsman if the Council has not dealt with the matter properly and it has not been resolved locally.
- Complaints about someone who is no longer a Councillor or conduct that took place when they were not acting as a Councillor
 - Decisions relating to Planning or Licensing matters should be challenged by way of judicial review

Anonymous complaints will only be accepted on an exceptional basis.

All complaints will be treated as confidential to enable a fair process to be followed. The parties to the complaint must not publicise the fact or content or the complaint or the outcome without the agreement of the Monitoring Officer

Pre-assessment enquiries

Receipt of a complaint will be acknowledged within five working days, with details about how the complaint will be dealt with and in what timescales.

The Monitoring Officer will consider requests for confidentiality. If confidentiality is refused, the complainant will be given the opportunity to withdraw the complaint before the subject member is informed.

The Councillor about whom a complaint has been made will be notified with a summary of the complaint and the name of the complainant, if confidentiality has not been requested.

The Councillor will be invited to submit a written statement of fact in reply to the complaint within 10 working days. The Councillor will be notified that they may seek the views of an Independent person at any stage of the process.

The Monitoring Officer may carry out preliminary enquiries and contact the complainant for clarification of their complaint, or further information.

3. Assessment process

A two-step process is applied: – the first stage being ‘can we deal with this complaint?’ This a jurisdictional test and would assess whether:

- the complaint is against one or more named Councillors of the authority
- the named Councillor was in office at the time of the alleged conduct;
- the complaint relates to matters where the Councillor was acting in that capacity or representative of the authority, and it is not a private matter;
- the complaint, if proven, would be a breach of the Code under which the Councillor was operating at the time of the alleged misconduct.

The second stage is ‘should we deal with this complaint?’

The Monitoring Officer will take into consideration whether it is in the public interest to proceed with a complaint.

The Monitoring Officer is likely to conclude that the complaint should not be dealt with in the following circumstances

- a. there is no evidence that the Code has been breached;
- b. taking into account the nature of the allegation, using public funds to examine the matter further would be disproportionate.
- c. the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- d. The conduct occurred during political debate or could be regarded as a political expression of views or opinion.
- e. the conduct complained about has already been the subject of investigation or enquiry by another public body;
- f. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and there is nothing further to be gained;
- g. there is not enough information to take the matter further;
- h. the complaint was made anonymously;
- i. the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances;
- j. the member has already apologised for the action that was the subject of the complaint, and that is sufficient to dispose of the complaint;

If the complaint fails one or more of these tests it will not be investigated, and the complainant will be informed that no further action will be taken in respect of the complaint.

4. Initial assessment decisions

The Monitoring Officer will complete an initial assessment following any comments being received from the Councillor. The assessment will be completed within 3 weeks of receipt.

An Independent Person will be invited to give their views prior to the initial assessment being finalised. The decision notice will state whether the Independent Person agreed with the decision.

The Monitoring Officer may reach one of three decisions on an allegation:

- No further action should be taken;
- The matter should be dealt with through a process of informal resolution in the first instance or;
- The matter should be referred for formal investigation

Where it has been concluded that no potential breach of the Code of Conduct is disclosed by the complaint, no further formal action will be taken by the Monitoring Officer. There is no right of appeal against a decision not to take any further action. Reasons will be stated and the complainant informed.

The Monitoring Officer may refer a matter for other action where it would not be in the interests of good governance to conduct an investigation. Examples of other action include training, conciliation and mediation or changes to council procedure.

Where the Monitoring Officer determines that a matter should be referred for formal investigation, the Monitoring Officer will commission an external investigator to carry out the investigation.

5. Referral for Investigation to the Values and Ethics Committee

Following the receipt of a report from an external investigator, the Monitoring Officer may decide that the matter should be referred for a hearing. If this is the case, a report will be prepared and will include information explaining that a hearing will be held and the procedure to be followed.

The Values and Ethics committee will decide upon who should attend and the procedure to follow after considering representations from the complainant and the Councillor.

The Committee has the power to reach one of three decisions:

1. The Councillor had NOT failed to comply with the Code of Conduct
2. The Councillor HAD failed to comply with the Code of Conduct, but no action needed
3. The Councillor HAD failed to comply with the Code of Conduct, and a sanction should be imposed.

Possible sanctions that are be available include

- To Report on findings to Full Council i.e. “naming and shaming”.
- To Recommend to a Group Leader that the member concerned be removed from any committee or sub-committee.
- To recommend, in relation to any Councillors of the executive that the member concerned be removed from the Executive.
- to recommend the Monitoring Officer to arrange appropriate training for the member concerned.
- to recommend removal of any member concerned from any outside body appointments.
- to require the withdrawal of Council facilities e.g., use of computer or internet.
- to exclude a member from the Council’s offices or other premises except for

the purpose of attending formal meetings.

Where a breach is found, the Decision Notice will be published on the Council's website.

The Monitoring Officer will report back to the Values and Ethics Committee on an annual basis regarding all complaints received and their resolution/ decision. Information will be provided on an anonymous basis so that the parties cannot be identified save where a decision notice has been published.

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