

# INVESTIGATIONS PROCEDURE



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## Introduction

1. This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a Member (the “Subject Member”) should be investigated.

## Appointment of the Investigating Officer

2. Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct them to conduct an investigation into the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the District Council or another authority or an external Investigating Officer. Although the Monitoring Officer is responsible for overseeing and ensuring the fairness and effectiveness of the Investigating Officers work, the Investigating Officer is responsible for the day to day management of the investigation. The Investigating Officer will remain independent of the Monitoring Officer and the Audit and Standards Committee throughout the investigation.

## The Role of the Investigating Officer

3. The role of the Investigating Officer is to ensure, as far as reasonably possible, that all the information which is relevant to the allegation is identified, reviewed and presented in their report.
4. Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist them in the conduct of their functions and may obtain such professional advice as may be necessary for the proper conduct of the investigation.

## Notification Requirements

5. Following the appointment of an Investigating Officer, the Monitoring Officer will notify the Complainant and Subject Member that the matter has been referred for investigation and inform them who is conducting the investigation. The Monitoring Officer will also advise the Complainant and Subject Member that they, and their witnesses, may be contacted by the Investigating Officer in relation to the investigation process.

## Conduct of the Investigation

6. The Investigating Officer has a broad discretion as to how they conduct the investigation.

7. The Investigating Officer may request that the Subject Member and the Complainant provide them with information and/or documents which are relevant to the investigation. They may request them to provide details of witnesses or other persons who may be able to assist with the investigation. If such requests are not complied with the Investigating Officer may seek further instructions from the Monitoring Officer. If the Subject Member fails to co-operate and the matter is subsequently referred to a Hearing Panel, the Hearing Panel may take that lack of co-operation into account when considering the matters before them.
8. It may assist the Investigating Officer to set out a plan for how they are going to conduct the investigation. The Investigating Officer may consult the Monitoring Officer at any stage of the investigation on any matter that the Investigating Officer considers to be relevant to the proper conduct of the investigation.
9. The Investigating Officer may request any party connected to the investigation to attend for interview with them, or arrangements to obtain information – including by telephone conference and/or for any party to provide them with documents or other material relevant to the investigation.
10. Any person who is interviewed by the Investigating Officer may arrange to have a friend or qualified legal representative attend with them – provided they are not connected to the matter under investigation.
11. The Investigating Officer will take a note of any interviews that they conduct.
12. The Monitoring Officer may, at their discretion, agree that the authority may pay such reasonable expenses, fees or allowances to any persons connected to the investigation who provides documents, information, advice or explanation, or who travels to see the Investigating Officer, as they consider appropriate.

### **Referral to the Monitoring Officer**

13. The Investigating Officer may refer the matter under investigation back to the Monitoring Officer for review if it appears to them appropriate to do so. For example, if the Complainant, Subject Member or a witness is seriously ill or it is appropriate to re-consider the investigation in the light of new evidence.

### **Deferral of Investigation**

14. The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place, or one of the parties involved is so unwell that the progress of the investigation is likely to be significantly delayed.

### **Confidentiality**

15. The Investigating Officer will request that any party involved in the investigation treat the matter as confidential, in order to maintain the integrity of the process. Should the matter be referred to a Hearing Panel the failure of any party to do so will be brought to the attention of the Hearing Panel.

## **Draft Report**

16. When the Investigating Officer is satisfied that they have sufficient information, or has obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the Code of Conduct, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken from all parties during the course of the investigation, a statement of their draft findings, and the Investigating Officer's conclusion as to whether the Subject Member has breached the Code of Conduct.
17. The draft report will be sent to the Monitoring Officer, the Complainant and the Subject Member for their comments. Following liaison with the Monitoring Officer the Investigating Officer may wish to conduct further investigations once they have received those comments, before producing their final report.

## **Final Report**

18. The final report will include the same sections as the draft report and will conclusively confirm the Investigating Officer's view as to whether or not there has been a breach of the Code of Conduct.
19. Where appropriate, to assist the Monitoring Officer, the Investigating Officer may include a chronology, summary of disputed facts and/or to append witness statements or other documents to the final report.

## **Action on Receipt of Final Report**

20. If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report, consult with the Independent Person, and, if satisfied that the report addresses all relevant issues, will write to the Complainant and the Subject Member notifying them that no further action is to be taken and enclose a copy of the final report.
21. If the Monitoring Officer is not satisfied that the investigation addresses all relevant issues, or fails to deal with the matter comprehensively or has not been conducted properly, they will, following consultation with the Independent Person, ask the Investigating Officer to reconsider their report, or the Monitoring Officer may make other arrangements to review the investigation.
22. If the report concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will, after consulting the Independent Person, either seek local resolution or refer the matter to the District Council's Hearing Panel.
23. More information on the local resolution of complaints can be found in the separate document referring to the "Arrangements for dealing with Member Complaints".
24. More information on the Hearing Panel process can be found in the separate document referring to the "Hearing Procedure".