



## Northampton Borough Council

### Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils

#### 1. Context

These "Arrangements" set out how you may make a complaint that an elected or co-opted Member of this Council has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with it. These Arrangements also apply to Parish Councils within the Borough of Northampton. You may make a complaint under these Arrangements that a Parish Councillor has failed to comply with the Code of Conduct adopted by the Parish Council. A complaint about a Parish Councillor will be dealt with by Northampton Borough Council in accordance with these Arrangements. References to "Member" in these Arrangements should therefore be read to include reference to a Parish Councillor.

These Arrangements include the appointment of at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided warrants investigation, and whose views can be sought by the authority at any other stage, or by a Member against whom an allegation as been made.

#### 2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on the authority's website [insert link] and on request from the One Stop Shop at the Guildhall

##### Making a complaint

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

The Monitoring Officer  
Northampton Borough Council  
The Guildhall  
St Giles Square  
Northampton  
NN1 1DE

or e-mail the Monitoring Officer at:

ffernandes@northampton.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the process in respect of complaints of alleged Member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please use the complaint form, which can be downloaded from the

authority's website, next to the Code of Conduct, and is available on request from the One Stop Shop at the Guildhall.

You are required to provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within ten working days of receiving it and will keep you informed of the progress of your complaint.

#### **4. Initial Assessment of Complaints Received**

The Monitoring Officer will review all complaints received by the authority and may consult with the Independent Person (see section 11 below) at this stage. If a complaint has been made but does not fall within the scope or intent of these arrangements, the Monitoring Officer may still decide to take informal action in order to resolve the matter. In assessing the complaint the Monitoring Officer will determine whether the complaint is admissible and, if so, decide whether:

- a) it warrants investigation or,
- b) it may be suitable for alternative resolution without investigation or,
- c) it doesn't warrant any further action.

For the complaint to be admissible it must be in a legible format and relate to an existing Member of the authority.

In determining whether or not the complaint should be referred for investigation or to seek alternative resolution the Monitoring Officer (and Independent Person if involved at this point) will have regard to a range of factors including the following:-

- i) Whether there is sufficient information upon which to base a decision.
- ii) How serious is the alleged complaint.
- iii) Is the complaint politically motivated, vexatious or tit for tat;
- iv) Did the action complained about occur recently or not;
- v) Do the allegations relate to actions occurring whilst the Member was acting in their official capacity or do they relate to their private life;
- vi) Whether the matter is considered suitable for alternative resolution and either the Member concerned or the complainant is not prepared to accept this as a solution.

The initial assessment of the complaint will normally be taken within twenty eight days of receipt of your complaint and you will be informed, in writing, of the outcome by the Monitoring Officer.

Unless exceptional circumstances exist that indicate otherwise, the Monitoring Officer will inform the Member concerned of the receipt and nature of the complaint and invite their comments.

Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the Member against whom your complaint is directed.

### **Alternative Resolution**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer may consult with the Independent Person about this course of action. Such informal resolution may involve the Member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept that offer, the Monitoring Officer (and Independent Person, if appropriate) will take account of this in deciding whether the complaint warrants a formal investigation.

If your 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.

### **5. If the Complaint is Referred for Investigation how is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Monitoring Officer will agree an investigation plan with the Investigating Officer. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint. If so, then you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview. The Monitoring Officer may consult with the Independent Person about the need for a formal investigation.

The Investigating Officer would normally write to the Member against whom you have complained and provide them with a copy of your complaint. The Member would be asked to provide their explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires further consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send it to the Monitoring Officer.

**6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will, in consultation with the Independent Person, 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 you and to the Member concerned, notifying you that no further action is required.

**7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel made up of Councillors from the Council's Standards Committee and any appropriate co-optees or seek an alternative resolution.

**7.1 Local Resolution**

The Monitoring Officer and Independent Person may consider that the matter can be resolved without the need for a hearing. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

**7.2 Local Hearing**

If the Monitoring Officer and Independent Person consider that local resolution is not appropriate or it isn't possible to achieve, the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

In summary, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give their response to the Investigating Officer's report. This is in order to identify what is likely to be agreed and what is likely to be in contentious at the hearing. The Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. 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 the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel.

The Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct and so dismiss the complaint. Alternatively, if the Hearings Panel finds that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person.

If the Member wishes to make representations to the Panel and/or consult with the Independent Person the Hearing will adjourn, normally for one week, and reconvene to hear any representation or statement from the Member before either confirming or amending their decision. If the Member does not wish to make representations to the Panel, or consult with the Independent Person, the decision of the Panel will stand as announced.

## **8. What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?**

The Hearings Panel may:

- 8.1 Publish its findings in respect of the Member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend that Council remove the Member from any or all Committees or Sub-Committees of the Council for a specified period of time;
- 8.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities for a specified period of time;
- 8.5 Instruct the Monitoring Officer to arrange training for the Member;
- 8.6 Instruct the Monitoring Officer to mediate between the complainant and the Member;
- 8.7 Recommend to Full Council that the Member be removed from any or all outside appointments to which they have been appointed or nominated by the authority where the complaint relates to that appointment and for a specified period of time;
- 8.8 Withdraw any facilities provided to the Member by the Council that may have been abused or improperly used; or
- 8.9 Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

There are no powers that allow Council or the Standards Committee to suspend or disqualify the Member or to withdraw Members' basic allowances. (Although removing a Member from Cabinet or a Committee would lead to a loss of any Special Responsibility Allowance that position was entitled to for the period of the suspension.)

## **9. What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter and subject to any adjournment as set out in 7.2 above, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you and to the Member. The decision notice will be made available for public inspection and the decision reported to the next convenient meeting of the Council.

## 10. Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman or take your own legal advice as to options that might be open to you.

## 11. Who are the Hearings Panel?

The Hearings Panel is a panel of the Council's Standards Committee. It will comprise three Members of the Standards Committee. If the conduct of a Parish Councillor is to be considered a Parish Council Member will form an additional Member of the Panel.

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

## 12. Who is the Independent Person?

Council has appointed three Independent Persons.

\* A person cannot be "independent" if they:

12.1 are, or have been within the past five years, a Member, co-opted Member or officer of the authority or of a parish council within the authority's area;

12.2 Is a relative or close friend, of a person within paragraph 12/1. For this purpose, "relative" means:

2.1 Spouse or civil partner;

12.2.2 Living with the other person as husband and wife or as if they were civil partners;

12.2.3 Grandparent of the other person;

12.2.4 A lineal descendent of a grandparent of the other person;

12.2.5 A parent, sibling or child of a person within paragraphs 12.2.1 or 12.2.2;

12.2.6 A spouse or civil partner of a person within paragraphs 12.2.3, 12.2.4 or 12.2.5; or

12.2.7 Living with a person within paragraphs 12.2.3, 12.2.4 or 12.2.5 as husband and wife or as if they were civil partners.

\* Note: This definition applies post the Transitional Arrangements period.

## 12. Revision of these arrangements

The Council may by resolution agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they

consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

Appendix A            The authority's Members Code of Conduct

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