

## Arrangements for Dealing with Standards Allegations under the Localism Act 2011

### 1. General

- 1.1 The Arrangements for Dealing with Standards Allegations ('the Arrangements') are made in accordance with section 28 (6) and (7) of the Localism Act 2011. The Arrangements explain:
- a) how to make a complaint that an elected or Co-Opted member of Milton Keynes City Council or of a Town or Parish Council in Milton Keynes has breached their Council's Code of Conduct (see paragraph 2 below); and
  - b) how Milton Keynes City Council will deal with the complaint.
- 1.2 All complaints will be dealt with in a transparent and timely manner and resolved informally where possible. Informal resolution remains open to the parties throughout the process even if a complaint has proceeded to the formal resolution stage. Examples of informal resolution include an apology, training, mediation, and mentoring. All complainants will be asked for their views on informal resolution before complaints are progressed.

Explanatory note:

**Subject Member:** An elected member or co-opted member of a Council against whom a complaint has been made alleging a breach of the Code of Conduct.

**Complainant:** A person who has submitted a complaint alleging that a Subject Member has breached the Code of Conduct.

**Monitoring Officer:** The Monitoring Officer is a senior officer at Milton Keynes City Council who has statutory responsibility for maintaining the Register of Councillor's Interests and who is responsible for administering the arrangements for complaints about alleged misconduct by Councillors and Co-opted members.

**Standards Committee:** The Standards Committee is made up of Milton Keynes City Councillors alongside Parish Council representatives. It is responsible for promoting and maintaining high standards of ethical behaviour. The Chair of the Standards Committee rotates by Political Group each year.

### 2. The Code of Conduct

- 2.1 The Localism Act 2011 requires all Councils to adopt a Code of Conduct that is consistent with the Seven Principles of Public Life (also known as the 'Nolan Principles').
- 2.2 The Code of Conduct that applies to a Councillor is the one that has been adopted by their Council. For example, complaints against Parish Councillors will refer to the relevant Parish Council Code of Conduct.
- 2.3 The Milton Keynes City Council Code of Conduct can be found in the [Council's Constitution](#) or requested from the Monitoring Officer at Civic, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.
- 2.4 The Code of Conduct for each Parish or Town Council is available on that Council's website or on request from the Parish or Town Clerk.

### **3. How to make a complaint**

- 3.1 All complaints should be submitted using the complaint form which can be found on the Council's [website](#).
- 3.2 If you are unable to access the online form, a copy can be requested from the Monitoring Officer at The Monitoring Officer, Legal and Democratic Services, Civic, 1 Saxon Gate East Milton Keynes, MK9 3EJ.
- 3.3 The Monitoring Officer will not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- 3.4 You can request that your details are kept confidential however, the Monitoring Officer is unlikely to grant this request unless you can prove that your identity may prejudice the assessment or subsequent investigation or put you or some other person at risk of harm.
- 3.5 When a complaint identifies potential criminal conduct or breach of other regulations, the Monitoring Officer will refer to the police or other prosecuting or regulatory authority. The Monitoring Officer may not take any further action in respect of the complaint until the police/regulatory authority have concluded their investigation and advised of the outcome.
- 3.6 Where a complaint is received against a Subject Member against whom there is already an ongoing complaint, the Monitoring Officer may consider these complaints together.

### **4. The Independent Person**

- 4.1 The Localism Act 2011 requires the appointment of at least one Independent Person. The Independent Person's view must be sought prior to a decision on an investigated complaint.
- 4.2 Milton Keynes City Council appoints a number of [Independent Persons](#). Both the Monitoring Officer and the Subject Member may consult the Independent Person at various stages of the complaints process.

### **5. Receipt of Complaint**

- 5.1 Within 5 working days of receipt of a complaint, the Monitoring Officer will either:
  - a) acknowledge receipt and send a copy of the complaint to the Subject Member giving them 10 working days to respond and asking for their view on informal resolution;
  - b) request further information from the Complainant giving them 10 working days to respond; or
  - c) reject the complaint for exceptional reasons including:
    - i) the Subject Member is no longer a Councillor, and the Monitoring Officer has no jurisdiction;
    - ii) the complaint does not relate to a Subject Member; or
    - iii) a similar complaint by the same Complainant has already been dealt with.

## **6. Initial Assessment**

- 6.1 When the Monitoring Officer is in receipt of the Subject Member's response, they will write to the Independent Person within 10 working days requesting their view on the complaint.
- 6.2 As part of the Initial Assessment, the Monitoring Officer will consider:
- a) Whether the Subject Member was acting in their capacity as a Councillor at the time of the alleged misconduct.
  - b) Whether the Subject Member was in office at the time of the misconduct.
  - c) Which Code of Conduct should be applied.
  - d) Whether the complaint is minor or trivial.
  - e) Whether the complaint is vexatious.
  - f) Whether the complaint is historical (for example it is over six months old).
  - g) Whether the conduct, if proven, would be a breach of the Code of Conduct.
  - h) Whether an investigation would be in the public interest.

## **7. Resolution/Monitoring Officer Decision Notice**

- 7.1 Within 10 working days of receipt of the Independent Person's response, the Monitoring Officer will decide to:
- a) Issue a Decision Notice rejecting the complaint with reasons.
  - b) Explore further informal resolution of the matter.
  - c) Investigate the complaint.
  - d) Consult with the Chair and Vice-Chairs of the Standards Committee. This will occur where:
    - i) a conflict of interest has arisen;
    - ii) The matter is particularly complex;
    - iii) There is a high level of public interest; or
    - iv) There is good reason to do so.
- 7.2 Following consultation, the Monitoring Officer will either:
- a) issue a Decision Notice rejecting the complaint with reasons; or
  - b) investigate the complaint.

- 7.3 The Monitoring Officer will communicate their decision to the Complainant and Subject Member within 5 working days. There is no right of appeal at this stage.

## **8. Investigation**

- 8.1 The Monitoring Officer will prepare an investigation brief and instruct a suitable Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator, with no previous knowledge of the complaint.

- 8.2 The Investigating Officer will have conduct of the investigation and will write to the Complainant and Subject Member outlining how they intend to carry out the investigation including, who they will meet and how long the investigation will take. An investigation should not take more than three months and the Monitoring Officer should be regularly updated.
- 8.3 At any point during the investigation, the Investigating Officer may refer the matter back to the Monitoring Officer if they believe that the matter may be resolved without a complete investigation, or that the complaint should be rejected.
- 8.4 The Monitoring Officer will decide to:
- a) continue the investigation;
  - b) issue a Decision Notice rejecting the complaint with reasons; or
  - c) resolve the complaint following consultation with the Chair and Vice-chairs of the Standards Committee.
- 8.5 If a further complaint is received about the subject member whilst an investigation is ongoing, it will not normally be incorporated into the existing complaint, unless:
- a) it is a complaint about the same event / series of events, or conduct that occurred at the same time as the original complaint; and
  - b) the subject member is advised in writing that the scope of the investigation has been amended to reflect the new complaint.
- 8.6 Once the investigators report has been completed, and formally received by the Monitoring Officer, it will not be re-opened, or the investigating officer re-instructed on the original complaint.

## **9. Outcome**

- 9.1 Before issuing their investigation report to the Monitoring Officer, the Investigating Officer will send a draft report to the Complainant and Subject Member for comments.
- 9.2 A final report will recommend:
- a) The need for a hearing, including any required witnesses.
  - b) Any alternative/informal resolution to conclude the complaint to which the Subject Member and Complainant agree.
  - c) Any other matter which appears relevant to the resolution of the complaint.
- 9.3 Within 10 working days of receiving the final report, the Monitoring Officer will either:
- a) issue a Decision Notice rejecting the complaint;
  - b) refer the complaint to a hearing; or
  - c) seek to informally resolve the matter.
- 9.4 The Monitoring Officer will consult with the Chair, Vice-Chairs and Independent Person when making this decision.

## **10. Hearings**

- 10.1 Milton Keynes City Council has adopted a procedure for Hearings which can be found [here](#).
- 10.2 A Hearings Sub-Committee will be convened to hear the matter, consisting of no less than 3 members of the Standards Committee, with advice from the Independent Person.
- 10.3 The Hearing can conclude that:
- a) the Subject Member did not breach the Code of Conduct and reject the complaint.
  - b) the Subject Member has breached the Code of Conduct
  - c) Sanctions must be applied

## **11. Sanctions**

- 11.1 The sanctions available to a Hearing Sub-Committee include:
- a) censure the Subject Member (i.e., 'the issue of an unfavourable opinion, judgment or reprimand');
  - b) instruct the Monitoring Officer to arrange training for the Councillor;
  - c) report its findings to the Council (or to the Parish Council) for information;
  - d) recommend the Group Leader remove the Subject Member from Committees or Cabinet (Milton Keynes City Council only);
  - e) recommend the Parish Council to remove the Subject Member from Committees;
  - f) recommend Full Council replace the Subject Member as Leader (Milton Keynes City Council only);
  - g) withdraw facilities (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Councillor);
  - h) withdraw access to Council offices, and / or officers and prescribe a single point of contact (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Councillor); or
  - i) recommend any appropriate actions by the Council to address any issues relating to policies or procedures which arise in the course of the complaint which may benefit from amendment.
- 11.2 There is no power to suspend or disqualify the Subject Member or withdraw any Special Responsibility Allowances to which the Subject Member may be entitled to under Milton Keynes Councils Members' Allowances Schemes.
- 11.3 The Monitoring Officer, or Milton Keynes City Council Standards Committee, cannot impose sanctions on a Subject Member who is a Parish or Town Councillor. In those circumstances, the Monitoring Officer or Hearing Sub-Committee will make written recommendations to the Parish/Town Council who will determine what, if any, action should be taken.

11.4 Any actions applied will only commence after the appeal period has expired and any appeal has been concluded. A Decision Notice setting out the decision will be sent to the Subject Member, the Complainant and any relevant Parish Council within 5 working days of the Hearing.

## **12. Publication**

12.1 All Hearing decisions and Investigation Reports will be published unless the Subject Member requests non-publication where it is found that the Code of Conduct has not been breached.

12.2 For all other decisions a brief decision notice will be prepared which will be sent to the subject member and complainant.

## **13. Appeal**

13.1 The Complainant and Subject Member have a right of appeal to challenge Hearing Committee decision where they can demonstrate that:

- a) the procedure has being wrongly applied; or
- b) new evidence has come to light since the Hearing which has resulted, in the appellants view - an unfair decision.

13.2 Any appeal must be submitted in writing and sent by email to the Monitoring Officer within 5 working days of the Hearing. All evidence upon which the appellant choses to rely must be included in the submission.

13.3 The Appeal Sub-Committee will determine whether they invite representations from other persons.

13.4 An Appeal Sub-Committee will be convened to hear the appeal consisting of no less than 3 members of the Standards Committee.

13.5 Members of the Hearing Sub-Committee cannot be on the Appeal Sub-Committee and a different Independent Person will advise.

13.6 Unless there are exceptional circumstances, which require a hearing, appeals will be conducted on paper which means that the Appeals Sub-committee will meet in private and there will be no opportunity to make oral representations. They will notify of their decision in writing.

13.7 If an appeal Hearing is required, it will follow the same procedural rules as a Hearing.

13.8 The decision of Appeal Sub-Committees will be published within 5 working days.

13.9 There is no further right to appeal in the Council process.

ENDS