



## **Monitoring Officer Protocol**

### **Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegation that a member of the Council has failed to comply with the Code of Conduct**

#### **Receipt of Allegations**

1. The Monitoring Officer shall set up arrangements within the Council to secure that any allegation made in writing that a member of the Council has or may have failed to comply with the Council's Code of Conduct is referred to them immediately upon receipt by the Council.
2. The Monitoring Officer shall maintain a register of such allegations to ensure that ensure that the Council can comply with its obligations under the relevant legislation.
3. Complaints shall normally only be entertained where they are signed by the complainant, but the Referrals Sub-Committee may decide that an anonymous complaint should be investigated in accordance with the agreed Assessment Criteria. If an anonymous complaint is to be investigated, the Referrals Sub-Committee will request the Chief Executive or senior member of the Council to adopt the complaint. The Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in their opinion that would be in the public interest in accordance with Guidance issued by the Standards Board for England.

#### **Notification of Receipt of Allegations**

4. All relevant allegations must be assessed by the Referrals Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant member to observe the Code of Conduct other than by reporting it to the Referrals Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, they shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Council, a statement of policy disagreement, a legal claim against the Council or a complaint against an officer of the Council. However, if the complainant so requires, such a complaint shall be formally reported to the Referrals Sub-Committee
5. Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:

1. acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Referrals Sub-Committee at its next convenient meeting;
2. notify the member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Referrals Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, they shall consult the Chairman of the Referrals Sub-Committee, or in their absence the Chairman of the Standards Committee, and may then decide that no such advance notification shall be given;
3. collect such information as is readily available and would assist the Referrals Sub-Committee in its function of assessing the allegation;
4. seek local resolution of the matter where practicable, in accordance with paragraph 6 and 7 below;
5. place a report, including a copy of the allegation, such readily available information and their recommendation as to whether the allegation disclosed is an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Referrals Sub-Committee.

### **Local Resolution**

6. Local resolution is not an alternative to reporting the allegation to the Referrals Sub-Committee, but can avoid the necessity of a formal local investigation.
7. Where the Monitoring Officer is of the opinion that there is the potential for local resolution, they shall approach the member against whom the allegation has been made and ask whether they are prepared to acknowledge that their conduct was inappropriate, and whether they would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Referrals Sub-Committee as required, and at the same time report the response of the member concerned and of the complainant. The idea is that, where the member has acknowledged that their conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Referrals Sub-Committee might take that into account when considering whether the matter merits investigation.

### **Review of Decisions not to Investigate**

8. Where the Referrals Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and the complainant may then within 30 days of receipt of such notification request that the Review Sub-Committee review that decision.
9. The Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Referrals Sub-Committee in respect of the matter, the summary of the

Referrals Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

### **Local Investigation**

10. It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.
11. It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Referrals Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Council, a senior officer of another authority or an appropriately experienced consultant.

### **Referral for other action**

12. If the Referrals Sub-Committee decides not to investigate a complaint, it can refer the matter to the Monitoring Officer to take other action as specified by the Sub-Committee. Such action may include arranging training for the member concerned or arranging conciliation between the member and the complainant. The Referrals Sub-Committee will always consult with the Monitoring Officer before reaching a decision to take other action.
13. If the other action specified by the Referrals Sub-Committee is not successful, the matter will not be referred back to the Referrals Sub-Committee for further consideration.