



# Northumberland

## County Council

### STANDARDS COMMITTEE

10 FEBRUARY 2022

---

---

### Code of Conduct Complaints – Hearing Procedure

### Report of the Monitoring Officer

---

#### **Purpose of report**

The report is to inform members of the procedure to be followed to assist in hearing forthcoming hearings into member code of conduct investigations.

#### **Recommendations**

To note the report

#### **Link to Corporate Plan**

This report is relevant to the “We want to be efficient, open and work for everyone” priority included in the NCC Corporate Plan 2018-2021.

#### **Key issues**

1. The Council adopted new arrangements for determination of complaints of breach of Code of Conduct by members on the 1<sup>st</sup> July 2012
2. The authority continues to have responsibility for complaints relating to Parish and Town Councillors in Northumberland.
3. The Council’s adopted procedure for receiving complaints about member conduct specifies that following an investigation, if the Investigating officer finds breaches have occurred and a local resolution is not possible, the matter will be referred to the Standards Committee and a hearing arranged.

#### **Background**

1. The Committee has an established Hearing Procedure, created in April 2016 following issues arising from previous code of conduct hearings. This report is intended to set out, in further detail, how it is expected that this procedure will be followed in a more complex hearing of the type which is expected to arise with regard to outstanding

investigations which are due to be presented to the Committee over the next few months. A copy of the Hearing Procedure is annexed.

2. We would make the point that the Committee is acting in a “quasi-judicial” role in that they should seek to follow the principles of natural justice at all times, which involves hearing “each side of the story”. However, it needs to be stressed that the context of the Code of Conduct Hearing is that it is to come to a view in terms of the Code of Conduct of the relevant Member. If allegations are made about the behaviour of Officers, this is an employment law issue and falls to be dealt with under a different procedure. It also needs to be stressed that the matters which the Committee can make a ruling upon are based on the limited categories set out within the approved NCC Code of Conduct. These are to be limited to such things as:

- treating persons in a disrespectful manner or bullying them;
- failing to observe requirements with regard to the keeping confidential any matters related to the Council or the business of third parties; or
- committing behaviour such as to bring the Council or the holder of the office into disrepute.

3. Procedure to be followed

- (1) The Chair should explain how the Committee is going to conduct the hearing – this may be following guidance from the Clerk.
- (2) Any preliminary procedural issues should be dealt with. For example, if the Member wishes to have a number of witnesses attending, the Committee may make a view in terms of whether or not it is appropriate to hear them, and to understand what evidence they will bring to assist the Committee in its deliberations.
- (3) The Committee should then move on to consider whether there are any disagreements over facts contained in the Investigating Officer’s Report. Typically, there will be, which means that the Investigating Officer (who is either an officer of the Council or someone who has been appointed by the Council but is independent) will be asked to make representations in support of his/her report, which will have been circulated to the Committee in advance. He / she may, but frequently will not, call witnesses to give evidence.
- (4) The Member concerned then has the opportunity to challenge any evidence put forward by the Investigating Officer and to cross-examine witnesses if there is any, or through the Chair.
- (5) The Member (who may have a representative) then has the opportunity to make his / her representations to support their version of events and, if permitted, to call witnesses to give evidence. At any time within this process the Committee can question any of the people involved, any of the witnesses and may allow the Investigating

Officer to challenge any evidence put forward and to ask him / her own questions of the Member or witnesses that he / she has brought forward.

- (6) If a Member disagrees with anything within the Investigating Officer's report without having given prior notice of this, he/she must give good reasons as to this, and the committee can decide whether or not it is appropriate to continue with the hearing.
- (7) Having heard all the representations made on both sides, the Committee should then withdraw to consider the representations made and evidence given. As part of this, the Committee should then consider whether or not, based on the facts and with the benefit of the advice of an independent person, whether or not the Member has failed to follow the Code of Conduct.
- (8) It is stated that the Member should be invited to give relevant reasons as to why the Committee should decide that they have not failed to follow the Code of Conduct. This can take account of any verbal or written representations made by the Investigating Officer.
- (9) The Committee should then, with the Independent Person, retire to consider the representations and, on their return, announce whether they find that the Member has failed to follow the Code of Conduct. If allegations are made that there are a number of failures to follow the Code of Conduct, they should confirm which, if any, provisions within the Code have not been followed.
- (10) If the Committee decides that a Member has not followed the Code, the Committee should then decide whether it should make recommendations to the Authority.
- (11) If the Member has failed to follow the Code, the Committee should again consider representations from both the Investigating Officer and the Member in terms of whether the Committee should apply a sanction and what form of sanction should be taken (which may be subject to further approval of the Council). It should be noted that the sanctions which can be lawfully applied are comparatively limited. They can include (as per Annex 1 of the Hearing Procedure) censure, removal from committees or removal of access to facilities.
- (12) It should be noted that if an individual hearing exceeds 3 hours in duration, then Standing Orders will need to be suspended to permit the hearing to continue.

## Implications

|   |  |
|---|--|
| <b>Policy</b>   | The local determination of alleged breaches of the Code of Conduct is a statutory requirement  |
| <b>Finance and value for money</b>  | There are no direct financial implications associated with this report.<br>The level of complaints received continues to be maintained at a relatively high level which does have an impact on capacity  |
| <b>Legal</b>  | The Localism Act 2011 states that arrangements must be put in place to deal with code of conduct complaints  |
| <b>Procurement</b>  | None   |
| <b>Human Resources</b>  | None   |
| <b>Property</b>   | None   |
| <b>Equalities</b><br>(Impact Assessment attached)<br>Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A <input type="checkbox"/> | The Code of Conduct supports the Council's policies on equalities in service delivery  |
| <b>Risk Assessment</b>  | <b>Level 1</b> The procedures in relation to the local assessment of member conduct complaints are designed to support fair and efficient handling of those complaints by the Council with the aim of avoiding challenge or dissatisfaction with that process. |
| <b>Crime &amp; Disorder</b>   | The locally based system of assessment, investigation and determination of complaints supports compliance with the Code of Conduct which in turn supports the Council's general aims in relation to crime and disorder.  |
| <b>Customer Consideration</b>   | The Code of Conduct is consistent with and reinforces the Council's approach to customer relations.  |
| <b>Carbon reduction</b>   | None   |
| <b>Health and Wellbeing</b>   | N/A  |
| <b>Wards</b>  | All  |

## Background Papers

Localism Act 2011

Northumberland County Council Arrangements for dealing with standards allegations under the Localism Act 2011

**Report sign off**

|   | Initials |
|---|----------|
| Monitoring Officer/Legal                        | SB       |
| Service Director Finance & Interim S151 Officer | JW       |
| Relevant Executive Director                     | CMC      |
| Chief Executive                                 | N/A      |
| Portfolio Holder(s)                             | N/A      |

**Author and Contact Details**

Neil Masson – Deputy Monitoring Officer  
Telephone - 01670 623314  
Email: neil.masson@northumberland.gov.uk