

Report of: Head of Legal and Democratic Services/Monitoring Officer

To: Standards Committee

Date: 6 June 2008

Item No:

Title of Report : Local Filter Arrangements – Procedures for making and dealing with complaints.

Summary and Recommendations

Purpose of report: To enable the Committee to consider and approve the arrangements for making and dealing with complaints.

Key decision: No

Board Member: N/A

Scrutiny Responsibility: N/A

Ward(s) affected: All

Report Approved by: Legal and Finance

Policy Framework: N/A

Recommendation(s): 1) That the Committee considers and approves the attached procedures for making and dealing with complaints.
2) That the composition of the assessment and review panels be approved.

Introduction

1. Following the introduction of the Standards Committee (England) Regulations 2008 on 8th May 2008, this Committee is now responsible for dealing with complaints made against Members regarding alleged breaches of the Code of Conduct.

Publicising the new arrangements

2. The Committee is required to publish the new arrangements so that the public is aware of the changes and also to consider the procedure to be followed on receipt of a complaint. The Council together with its neighbouring authorities published a joint advert in the local press on the 9th May 2008 (attached at Appendix 1).
3. In addition, pending the approval of the Committee in relation to the complaint literature, a temporary notice has been placed on the internet advising members of the public of the change of administrative arrangements and advising that any complaints should be addressed to the Monitoring Officer.

Complaint Literature

4. Attached at Appendices 2 and 3 are a complaint form and a guidance note. Although consideration was given to producing one corporate complaint leaflet, which could cover complaints about both service dissatisfaction and breaches of the Code of Conduct, the amount of information required to be included militates against such an approach.
5. The complaint form and guidance note have been drafted jointly with all Oxfordshire authorities and is likely to be adopted by each in identical terms (except of course in relation to contact details etc).

Terminology

6. The complaint form and guidance note uses the following terminology;

Assessment Panel – for the initial assessment

Review Panel – for any review requested of the initial assessment.

I think that these 'labels' are preferable to references to 'sub-committees'.

Composition of Panels

7. The rationale of having a mix of independent members, City Council members and Parish Council members on the Committee is that each group bring a valuable perspective to the determination of complaints. The composition of the Panels should reflect that. However, the Regulations require that all Panels are chaired by an independent member. In so providing it is clear that the statutory framework places a premium on the perspective brought by independent members.
8. I recommend to the Committee that the Panels ought to consist of any 3 members of the Committee (but obviously a different 3 members for a Review Panel to the 3 members who carried out the initial assessment

being considered on review) but that 2 of the 3 members should always be independent members. To do otherwise on a Panel of 3 could potentially render redundant the casting vote for the independent Chairs (as is envisaged by the Regulations).

9. The consequence of such a composition is that there is only one elected member sitting on a Panel. Whilst the Committee is rightly concerned to retain a parity of representation between City and Parish members, it would not be appropriate or permissible for that remaining seat on any Panel to be taken by a member who is not a member of the type of Authority that the member complained of represents.

10. In summary:-

Complaint against Oxford City Council member:

Assessment Panel – 2 Independent members
1 Oxford City Council member

Review Panel - 2 Independent members
1 Oxford City Council Member

Complaint against Parish Council member:

Assessment Panel – 2 Independent members
1 Parish Council member

Review Panel - 2 Independent members
1 Parish Council Member

Hearings

11. My recommendation is that any hearings of complaints (i.e. post investigation) should be carried out by the whole Committee.

Recommendations

12. That the complaint form and guidance note be approved.
13. That the composition of the Assessment and Review Panels be approved.

Name and contact details of author: Jeremy Thomas, Head of Legal and Democratic Services. Ext 2224.

Background papers: None.

Extract from The Oxford Times - 9th May 2008

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Public Notices

Public Notice

CODE OF CONDUCT FOR COUNCIL MEMBERS

Changes to the complaints procedure

Elected Councillors of local authorities and co-opted members of local authority committees are required to comply with a Code of Conduct. The Code of Conduct sets out the ethical framework within which they must operate and the standards of behaviour that is expected of them.

From 8 May 2008, the responsibility for considering complaints that a member may have breached the Code of Conduct is moving from the Standards Board for England to the standards committees of local authorities.

What this means to you

After 8 May 2008, if you want to complain about the conduct of a member of one of the authorities listed at the end of this notice, or a member of one of the parish or town councils in Oxfordshire, you must submit your complaint to the relevant Council. The District Councils are responsible for parish councils in their area.

The standards committee can only deal with complaints about the behaviour of a member. It will not deal with complaints about things that are not covered by the members' Code of Conduct, such as complaints about council services. If you make a complaint to the standards committee it must be about why you think a member has not followed the Code of Conduct.


Further details for each authority can be found at the website below. Any complaints should be addressed to:

<p>Liz Howlett The Monitoring Officer Cherwell District Council, Bodcote House, Bodcote, Banbury, Oxon OX15 4AA www.cherwell.gov.uk</p>	<p>Jeremy Thomas The Monitoring Officer Oxford City Council, The Town Hall, Oxford OX1 4EY www.oxford.gov.uk</p>	<p>Peter Clark The Monitoring Officer Oxfordshire County Council, County Hall, New Road, Oxford OX1 1ND www.oxfordshire.gov.uk</p>
<p>Margaret Reed The Monitoring Officer South Oxfordshire District Council, Benson Lane, Crowmarsh Gifford, Wallingford, Oxon OX10 8HQ www.southoxon.gov.uk</p>	<p>Tim Treuherz The Monitoring Officer Vale of White Horse District Council, Abbey Close, Abingdon, Oxon OX14 3JE www.whitehorsedc.gov.uk</p>	<p>Caroline Redzikowska The Monitoring Officer West Oxfordshire District Council, Woodgreen, Witney, Oxon OX28 1NB www.westoxon.gov.uk</p>

 **Cherwell** DISTRICT COUNCIL
NORTH OXFORDSHIRE

 **OXFORD CITY COUNCIL**

 **OXFORDSHIRE COUNTY COUNCIL**
www.oxfordshire.gov.uk

 **South Oxfordshire District Council**
Listening Learning Leading

 **Vale of White Horse**

 **WEST OXFORDSHIRE DISTRICT COUNCIL**



COMPLAINT FORM

If you have any questions or difficulties filling in this form or you are in need of any support in completing this form, if for example English is not your first language, or you have a disability that prevent you making your complaint in writing – please contact the Legal and Democratic Services on 01865 252787

You can also e-mail us on standards.monitoringofficer@oxford.gov.uk

Please note

- a. Complaints can only be accepted in writing;
- b. An officer from the Council may contact you personally to go through the details of your complaint;
- c. The Council is unlikely to be able to keep your identity or the information you have provided confidential. If you have serious concerns about disclosure of your name and a summary of your complaint, please complete Section 4 on confidential information;
- d. Please read the leaflet *How to make a complaint* prior to completing this form.

Section 1: Your contact details

Title:	
First Name:	
Surname:	
House Number/Name	
Road/Street	
Town/City:	
Postcode:	
Telephone/Mobile:	

E-mail address:	
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Please tick the box which complainant type best describes you:-

- Member of the Public
- Elected/Co-opted Member of the Authority
- Independent Member of the Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other Local Authority Officer/Employee
- Other (Please specify)

Section 2: Your complaint

Who are you complaining about?

Please give the name of the Councillor/s, Member/s Independent or Co-opted Member/s of this Authority that you consider has broken the Code of Conduct.

Name of individual/s (include both first and last names)

1.	
2.	
3.	
4.	
5.	

Section 3: What are you complaining about?

Please provide us with as much information as you can about your complaint to help us decide whether or not it should be investigated. Include the date and details of the alleged misconduct, and any information that supports the allegation. If you are

complaining about more than one member you should clearly explain what each individual member has done that you believe has breached the Code of Conduct.

We can only investigate complaints that a member has broken the Code of Conduct for members (please see leaflet **How to make a complaint** referred to above). You can continue on a separate sheet if there is not enough space on this form.

A large, empty rectangular box with a thin black border, occupying most of the page below the text. It is intended for the complainant to write their details and the nature of the complaint.

Evidence (if this applies)

Please attach this form, copies of any correspondence, documents, names and details of witnesses, and any other evidence that you feel is relevant to your complaint. Please avoid sending us large amounts of background information that only relate indirectly to your complaint.

Please briefly describe the documents you will be enclosing:-

1.
2.
3.

Tick this box if you would like us to return the evidence to you.

Section 4: Confidential information (this part only applies if you are asking for your identity to be kept confidential)

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe that they have a right to be provided with a summary of the complaint. We are unlikely therefore to withhold your identity or the details of your complaint unless there is a good reason. For example, where the disclosure of personal details may result in the evidence being compromised or destroyed by the subject member or if there is a real possibility of intimidation of the complainant or witnesses by the subject member.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The assessment of your request will be undertaken by the Panel who will carry out the initial assessment of your complaint. We will then contact you with the decision. If your request is not granted, we will allow you the option of withdrawing your complaint. It is important to understand that in certain exceptional circumstances where the matter complained of is very serious, we can proceed with an investigation or other action and disclose your name even if you have asked us not to.

Please provide details of why you believe we should withhold your name/details of your complaint below:-

Please consider the complaint I have described above and the evidence attached. I understand and accept that the details will normally be disclosed to the Member and any parties involved in the complaints procedure or outside authorities required to monitor the Council's complaints procedure by law. It may also be shared with the police in the prevention or detection of crime.

Signature: _____

Date: _____

Please send this form together with any attachments to:-

**The Monitoring Officer
Oxford City Council
The Town Hall
Blue Boar Street
Oxford OX1 4EY.**

Or by e-mail to standards.monitoringofficer@oxford.gov.uk

Guidance – How to make a complaint about a member of Oxford City Council or a Parish Council within the City.

This document tells you how to make a complaint if you are unhappy about the way that a Councillor or member of either Oxford City Council or a Parish Council within the City has behaved. A list of the Parish Councils within the City can be found at: (insert link)

It also explains:-

- How to make a complaint;
- Who you can complain about;
- What you can complain about;
- What will happen to your complaint.

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If you have any questions or difficulties or are in need of any support in reading or understanding this leaflet, for example – if English is not your first language or you have a disability, please contact Legal and Democratic Services 01865 252694.

Alternatively, you can e-mail queries to: standards.monitoringofficer@oxford.gov.uk

HOW TO MAKE A COMPLAINT

Your complaint needs to be made in writing. This can be done:

- In writing by completing a complaints form and sending it to the address at the end of this document (see page 6)
- In writing by letter, in which case please make sure that the letter includes all the information we need
- Via the “on-line form” available at www.oxford.gov.uk
- By email, in which case the email should be clearly marked for the attention of the Monitoring Officer and should also include all the information we need. It should be sent to standards.monitoringofficer@oxford.gov.uk

Please send any documents that support your complaint with your form, letter or email.

The following sections of this document are intended to help you make sure you are sending us all the information we need.

If you cannot write your complaint in English, we can arrange to have it translated for you.

If you have any questions about the form, please contact the Monitoring Officer in writing or by e-mail to standards.monitoringofficer@oxford.gov.uk

SECTION 1 – YOUR CONTACT DETAILS

- Please provide your full name, address, contact telephone number and e-mail.
- Please also specify the type of complainant e.g., an Officer of the Council, member of the public etc.

Please note that:

- An officer from the Council may need to contact you personally to go through the details of your complaint.
- Unless you indicate that you would like us to communicate with you via letter, we will where possible communicate with you via email.

SECTION 2 – WHO YOU CAN COMPLAIN ABOUT

You can complain about Councillors or co-opted/Independent Members of Oxford City Council. A full list of current Members is available on the Councils web page at www.oxford.gov.uk

Please note, we can only consider complaints about individual Councillors or Co-opted/Independent members. We cannot consider complaints about the Council as a whole or

about any people employed by it. A complaint about a service is dealt with under a separate procedure (see the corporate complaints page on the Council's website at www.oxford.gov.uk.)

The Monitoring Officer will forward complaints to the Assessment Panel (made up of members of the Standards Committee) for the initial assessment and for a decision as to whether further action will be taken.

If the complaint is clearly not about a Member's conduct, or does not fall within the matters which you can complain about as described below, then the Monitoring Officer does not have to pass it to the Panel for assessment.

SECTION 3 – WHAT YOU CAN COMPLAINT ABOUT: BREACH OF THE CODE OF CONDUCT

You can complain about a Member breaking any part of the Council's Code of Conduct for Members. A copy of the Code can be found in Part 23 of the Council's Constitution which is available on the Council's website. (www.oxford.gov.uk)

A complaint can be made if you believe a Councillor or Member has breached any part of the Code whilst acting in their official capacity which includes:-

- Unlawfully discriminating against someone;
- Failing to treat people with respect;
- Bullying any person;
- Intimidating any person involved in any investigation or proceedings about someone's misconduct;
- Doing something to prevent those who work for the Authority from being unbiased;
- Revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law;
- Damaging the reputation of their office or authority;
- Using their position improperly, to their own or someone else's advantage or disadvantage;
- Misusing their Authority's resources;
- Allowing their Authority's resources to be misused for the activities of a registered political party;
- Failing to register financial or other interests;
- Failing to reveal a personal interest at a meeting;
- Taking part in the discussion or making a decision where they have an interest that is so significant that it is likely to affect their judgement of the public interest (known as a 'prejudicial interest');
- Improperly influencing a decision about a matter that they have a prejudicial interest in;
- Failing to register any gifts or hospitality (including its source), that they have received in their role as a Member worth over £25.

What we cannot investigate

There are some complaints we cannot investigate, including:-

- Complaints where a Member is not named;
- Complaints that are not in writing;
- Incidents or actions that are not covered by the Code of Conduct;
- Incidents that are about a fault in the way the Council has or has not done something. Matters relating to the policies or performance of the authority generally. This is known as maladministration and may be a matter for the Local Government Ombudsman (www.lgo.org.uk) ;
- Complaints about employees;
- Incidents that happened before a Member was elected;

Evidence

If you believe a Member has breached the Code of Conduct for Members it would be useful to attach any evidence that you feel is relevant to your complaint. For example, details of any witnesses or details of any dates/times of any incidents etc. You can send accompanying documents if you wish.

SECTION 4 – CONFIDENTIAL INFORMATION

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe that they have a right to be provided with a summary of the complaint. We are unlikely therefore to withhold your identity or the details of your complaint unless there is a good reason. For example, where the disclosure of personal details may result in the evidence being compromised or destroyed by the subject member or if there is a real possibility of intimidation of the complainant or witnesses by the subject member.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. A decision on your request will be made by the Panel who will carry out the initial assessment of your complaint. We will then contact you with the decision. If your request is not granted, we will allow you the option of withdrawing your complaint. It is important to understand that in certain exceptional circumstances where the matter complained of is very serious, we can proceed with an investigation or other action and disclose your name even if you have asked us not to.

SECTION 5 – WHAT HAPPENS TO YOUR COMPLAINT

Initial Assessment

When we receive your complaint, we will write to you to let you know that we have received it. The Assessment Panel will make an initial assessment of your complaint within an average of **20 working days**. It may be that they will decide that your complaint will not be investigated

for one or more reasons. The Panel may alternatively refer the complaint to the Monitoring Officer for investigation or take other action. The Panel may alternatively refer the matter to the Standards Board for England.

The Assessment Panel will apply the following questions to the facts set out in the complaint in deciding whether to investigate the complaint:

1. Is the complaint about the conduct of a Member?
If yes, then
2. Is the conduct of a type, which is covered by the Code?
If yes, then
3. Does the complaint merit an investigation?

The Panel are unlikely to consider that a complaint merits investigation if;

1. it appears to be malicious, politically motivated or a tit-for-tat complaint;
2. it is not significant enough to justify spending public money and/or officer and member time on conducting an investigation
3. it is about something that happened so long ago that there would be little benefit in taking action now;
4. it has already been the subject of an investigation or other action relating to the Code of Conduct or has been the subject of an investigation by other regulatory authorities;
5. insufficient information has been submitted to satisfy the Panel that an investigation is merited.

Review

If the Assessment Panel decide that your complaint should not be referred for investigation, we will write to you explaining the reasons why.

If you are unhappy with the outcome you may seek a review of this decision by making a further request in writing with reasons, **within 21 working days** after the initial assessment decision is received. A differently constituted Panel must make a decision in relation to the review within three months but we aim to deal with it in 20 working days.

If following the review the decision not to investigate is upheld we will write to you with the decision. There is no right of appeal. However, if you are dissatisfied with regard to the procedures adopted by the Authority then you can write to the Local Government Ombudsman (www.lgo.org.uk).

Investigation/Determination Hearing

If your complaint is referred to the Monitoring Officer for investigation, we will write to you and inform you of the timescales for completing the investigation, and details of any hearings (if appropriate). You will also have an opportunity to provide the investigator with any further information or documents that you consider relevant. Usually you will be able to attend the hearing, and we will of course write to you to tell you the outcome of the hearing.

Remember, full details of your complaint and your details will be shared with the subject Member and all parties involved in the case. See Section 4 above (page 4) for more details.

SECTION 6 - AT THE END OF AN INVESTIGATION

Following a hearing, Standards Committee will make one of the following findings about the Member subject to the complaint:-

- The Member had not failed to comply with the Code of Conduct;
- The Member had failed to comply with the Code of Conduct but that no action needs to be taken;
- The member had failed to comply with the Code of Conduct and that a sanction should be imposed.

If the member is no longer a Member of the Authority the Standards Committee can only censure that person. Otherwise, it can impose any one or a combination of the following sanctions:-

- Censure;
- Restriction for up to a maximum of 6 months of that Member's access to the premises and/or resources of the Authority. This is provided that any such restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the Members' ability to perform their functions as a Member;
- Partial suspension of that Member for up to a maximum of 6 months;
- Suspension of that Member for up to a maximum of 6 months;
- A requirement that the member submit a written apology in a form specified by the Standards Committee;
- Partial suspension of the Member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee;
- Partial suspension of a Member for up to a maximum of 6 months or until such time as the Member undertakes any training or conciliation specified by the Standards Committee;
- Suspension of the member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee;
- Suspension of the Member for up to a maximum of 6 months or until such time as the member undertakes such training or conciliation as the Standards Committee specifies.

The Standards Committee can decide that any sanction will start on any specified date up to 6 months after the date of the hearing.

POINTS TO REMEMBER

- We can only consider complaints that are about individual Councillors or Members of this Council or one of the Parish Councils within the City;
- We can only investigate matters that you believe a Member has breached the Code of Conduct;
- Your complaint must be in writing and cover all the points set out in the complaints form;
- Your details and details of the complaint are unlikely to remain confidential as we need to share it with all parties involved in the process including the subject Member;
- Do send us as much information as you can in order for us to decide whether or not the matter should be investigated.

We hope the information in this leaflet has answered your questions about making a complaint.

If you have any more questions, you can contact:-

The Monitoring Officer
Oxford City Council
The Town Hall
Blue Boar Street
Oxford OX1 4EY

E-mail: standards.monitoringofficer@oxford.gov.uk