

## RYEDALE DISTRICT COUNCIL

### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE MEMBERS' CODE OF CONDUCT

These arrangements set out how a complaint can be made to Ryedale District Council that an elected or voting co-opted Member has failed to comply with the Council's Code of Conduct for Members. These arrangements are made under Sections 28(6) and (7) Localism Act 2011.

#### **1 Independent Person**

The Council has appointed an Independent Person whose views must be sought by the Council before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Council at any other stage or by a Member against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Standards Committee.

#### **2 Members' Code of Conduct**

The Council has adopted a Code of Conduct for Members, attached as an Appendix to these arrangements. It is also published on the Authority's website.

#### **3 Making a Complaint**

If someone considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, they should write or send an email to:

Anthony Winship  
Monitoring Officer  
Ryedale District Council  
Ryedale House  
MALTON  
YO17 7HH

E-mail: [anthony.winship@ryedale.gov.uk](mailto:anthony.winship@ryedale.gov.uk)

Where possible, the standard complaint form should be used. It can be downloaded from the Council's website, or is available from the Monitoring Officer at the above address.

It is important to provide a name and contact address. Please note that the Council will not investigate anonymous complaints unless there is a significant public interest in doing so.

#### **4 Timescales**

We aim to deal with any complaint, so far as possible, within 30 working days of receipt, or as soon as possible thereafter.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days and will keep you informed of progress.

#### **5 Assessment for Investigation or Other Action**

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

The Member who is the subject of a complaint ('the subject Member') will be advised of the complaint and copied into any correspondence or complaint form received from the Complainant. The Monitoring Officer will review complaints and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation.

This assessment will take place, where possible, within 15 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

The subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of his/her decision about whether or not the matter should be investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as he/she considers appropriate.

The Monitoring Officer will not refer for investigation matters which are, in his/her opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated.

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that s/he undertakes initial assessment of a complaint, it will be referred to the Standards Committee.

## **6 Informal Resolution**

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Council.

If the Member or the Council make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

## **7 Investigation**

If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 5 days of request.

Once the information is received it will be sent to the Member who is subject to the complaint, who would also be invited to submit all information they wish to be considered in response within 5 days.

Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance.

The Monitoring Officer may also appoint a member of his/her staff or external investigator to oversee the gathering of information relating to the matter which will comprise the

investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer, and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

## **8 Conclusion of no evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will receive and review the report and if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that s/he is satisfied that no further action is required.

## **9 Conclusion that there is evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing he/she will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution the matter will be reported to the Standards Committee but no further action will be taken.

## **10 Hearing**

If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Standards Committee. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct, and if so, whether to take any action.

The report will be presented to the Panel. The Complainant and the subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

The Panel shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct, and if so, the Panel may determine whether any action is necessary.

The Member will have an opportunity at this stage to make representations to the Panel and consult with the Independent Person. The Panel will then decide what action to take.

**11 What action can the Panel take if there has been a breach of the Code of Conduct?**

The Panel may:

- (a) issue a letter of censure to the Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Member's Group Leader that he/she be removed from any or all committees or sub-committees of the Council;
- (c) instruct the Monitoring Officer to arrange training for the Member.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

**12 What happens at the end of the hearing?**

The Chair of the Panel will announce the decision of the Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 5 days. The outcome will be reported to the next meeting of the Standards Committee.

**13 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where he/she considers it expedient to do so to secure the effective and fair consideration of any matter.

**14 Appeals**

There is no right of appeal for the Complainant or the subject Member against a decision of the Monitoring Officer or Panel.

If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government Ombudsman.

1 July 2012