



## Standards Complaints Procedure:

Arrangements for dealing with allegations of misconduct by Councillors under the Localism Act 2011

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## Definitions

For the purposes of the Procedure, the following terms are as defined here:

### Complaint/Standards

Complaint	means the complaint made to the Monitoring Officer under the Localism Act 2011 about the conduct of a Councillor's, or Parish Councillor's, on the failure to comply with their Code of Conduct
Complainant	means the person who has made a Complaint against the Councillor
Councillors	include Parish Councillors and refers in this Procedure to the Councillor about whom the Complaint has been made
Formal Investigation	referring the Complaint to an Investigating Officer to write a report, usually for referral to the Standards Committee
Independent Person	a role established under Section 28(7) of the Localism Act 2011, to provide an independent view on Standards Complaints
Informal Resolution	means resolving the Complaint without a formal decision of the Standards Committee
Initial Assessment	means the first assessment by the Monitoring Officer as to whether the Complaint should be formally investigated
Investigating Officer	refers to the Deputy Monitoring Officer or the Monitoring Officer or an appointed external or internal officer who is carrying out the Formal Investigation, and preparing the report
Monitoring Officer	reference to the Monitoring Officer will also be a reference to the Deputy Monitoring Officer unless otherwise stated
Standards Committee	<a href="#">the Committee</a> established by the Council on 11 <sup>th</sup> July 2012. All references to a Standards Committee include references to any Sub-Committee established for the purposes of considering a Formal Investigation (and vice versa).

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## 1. Purpose

- 1.1 It is expected that elected Councillors of St Albans City & District Council, and the Parishes, uphold the highest standards of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2 These arrangements describe how a person can make a complaint that a Councillor has failed to comply with the Council's Councillors' Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.
- 1.3 Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have "arrangements" under which allegations that a Councillor, or co-opted Member, has failed to comply with the Council's Code of Conduct can be investigated, and decisions made on such allegations. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated. The Independent Person's views can also be sought by the Council at any other stage, or by a Councillor against whom an allegation has been made.

## 2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Members. This is available for inspection on the [Council's website](#) and on request from the Council's Monitoring Officer, by emailing: [monitoringofficer@stalbans.gov.uk](mailto:monitoringofficer@stalbans.gov.uk)
- 2.2 Each Town and Parish Council has also adopted a Code of Conduct. If you wish to inspect a Town or Parish Council's Code of Conduct, you should either look on their website or ask the Town or Parish Clerk to let you inspect the Town or Parish Council's Code of Conduct.
- 2.3 There are nine Town and Parish Councils in the District:
  - Colney Heath Parish Council
  - Harpenden Rural Parish Council
  - Harpenden Town Council
  - London Colney Parish Council

- Redbourn Parish Council
- Sandridge Parish Council
- St Michael Parish Council
- St Stephen Parish Council
- Wheathampstead Parish Council.

Details of the Town and Parish Council websites and contact details for the Town and Parish Clerks are on this Council's website at the following link: [St Albans District Council - Parish councils](#).

### 3. Making a Complaint

- 3.1 All Complaints must be made in writing. Complaints should preferably be made on the official complaint form as this ensures that the Complainant has provided all the relevant information. However, it is good practice to accept Complaints not made on the official form, so we will accept any Complaint made in writing.
- 3.2 Completion of the Complaint form will enable the Council to process the complaint efficiently and transparently. A copy of the complaint form may be found at Appendix 1.
- 3.3 The Complaint form can be posted or emailed to the Council's Monitoring Officer whose contact details are:

The Monitoring Officer, St Albans City & District Council, Civic Offices, St Peter's Street, St Albans, AL1 3JE

[monitoringofficer@stalbans.gov.uk](mailto:monitoringofficer@stalbans.gov.uk)

Complainants who find it difficult to make their complaint in writing (e.g. because of a disability) will be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer, on 01727 866100.

### 4. Anonymous Complaints

- 4.1 Anonymous complaints will not normally be investigated. They will only be accepted in exceptional circumstances where the Monitoring Officer, in consultation with the Independent Person, concludes that the balance of the

public interest lies in doing so, and the fairness of the procedure can be maintained.

- 4.2 The confidentiality of the identity of the Complainant can be maintained where that is justified by a real fear of intimidation or victimisation. However, where this is not an obvious risk, the fact that the Complainant has not disclosed their identity can indicate that the complaint is less serious, is malicious, or is politically motivated.
- 4.3 As a matter of fairness and natural justice, the Councillor will usually be told who has complained about them, and receive details of the Complaint.
- 4.4 However, in exceptional circumstances, the Monitoring Officer may withhold the identity of a Complainant or witness where the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they, or any witness relevant to the complaint, may be at risk of serious harm, or their employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 4.5 If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, the Complainant will be notified of the Monitoring Officer's decision with reasons. At this stage the Complainant will be given the option to withdraw the Complaint.
- 4.6 There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.
- 4.7 The decision to refuse this request will be communicated to the Independent Person.
- 4.8 If the Complainant's request for confidentiality is upheld, the Monitoring Officer will inform the Complainant that confidentiality may be retained but will be subject to review by the Monitoring Officer as the Complaint progresses.

## **5. Acknowledgement and notification of receipt of Complaint**

- 5.1 The Monitoring Officer will acknowledge receipt of a Complaint within ten (10) working days of receiving it and will keep the Complainant informed of the progress of their Complaint.
- 5.2 The Monitoring Officer will, within fifteen (15) working days of accepting the Complaint, advise the Councillor that a Complaint has been received (together with the name of the Complainant and brief details of the Complaint, unless it is subject to confidentiality).
- 5.3 The Monitoring Officer will, within the same timescale, normally advise the Councillor's Group Leader and the Chief Executive of the receipt of the

Complaint (together with the name of the Complainant and brief details of the Complaint unless it is subject to confidentiality). The Councillor's Group Leader and Chief Executive are not invited to make any representations to the Monitoring Officer at any stage of the process.

- 5.4 The Monitoring Officer may decide not to advise the Councillor, the Councillor's Group Leader or Chief Executive of the receipt of the Complaint if this might prejudice a subsequent investigation. The Monitoring Officer shall have the discretion to notify other persons of the receipt of the complaint as they consider appropriate.
- 5.5 Once a Complaint has been made to the Monitoring Officer, it may only be withdrawn by the Complainant where the Monitoring Officer agrees that doing so is proportionate and necessary in the public interest.

## **6. Investigation – Initial Assessment of whether it is a Complaint which should be investigated**

- 6.1 The Monitoring Officer will assess every Complaint received to determine if it warrants an Initial Assessment. Factors which will be taken into account in deciding if there should be an initial assessment include:
- i. the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.
  - ii. the Complaint has been received more than six (6) months after the alleged misconduct, other than in exceptional circumstances. This is both because, where a matter is serious, it would be reasonable to expect the Complainant to make a Complaint promptly, and because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. Where there are exceptional circumstances to justify dealing with a matter outside the six (6) months, the Monitoring Officer can agree to do so. The decision of the Monitoring Officer shall be final.
  - iii. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.
  - iv. There can be no breach of the Code of Conduct because it relates to the Councillor's private life.

- v. It is about someone who is no longer a Councillor or co-opted member. The Monitoring Officer will have discretion to proceed to determine a Complaint where a Councillor is no longer a Councillor (or co-opted member) if in their view the alleged behaviour is such that it is in the public interest to carry out an investigation.
- vi. There is insufficient information to enable the Complaint to be investigated (although the Monitoring Officer may ask the Complainant to provide additional information).
- vii. the Councillor complained of has apologised and no further action is warranted.
- viii. Would an investigation be proportionate and necessary in the public interest, bearing in mind all of the circumstances, including the nature of the Complaint, the resource potentially involved and its impact on the public purse.

6.2 Complaints which meet any of this criteria will not normally be accepted.

6.3 The decision as to whether to proceed with an Initial Assessment will normally be taken within ten (10) working days of receipt of the complaint.

## **7. Investigation – Initial Assessment of Complaint**

7.1 The Monitoring Officer will assess every Complaint accepted and, after consultation with the Independent Person, make a decision as to the most appropriate action to be taken in relation to the Complaint.

7.2 Before doing so, the Monitoring Officer will invite the Complainant and the Councillor to meet with them to discuss the Complaint.

7.3 After these meetings, the Complainant and the Councillor will be invited to submit any additional information requested by the Monitoring Officer or which the Complainant or Councillor wishes to submit.

### **Carrying out the Initial Assessment**

7.4 The Monitoring Officer will consider the Complaint and decide whether they need to meet or speak to the Complainant to understand the nature of the Complaint. In most circumstances the Monitoring Officer will invite the

- Complainant to meet to discuss the Complaint. They will be invited to provide any additional documents they, or the Monitoring Officer, consider relevant.
- 7.5 The Monitoring Officer will normally write to the Councillor and provide them with a copy of the Initial Assessment and ask the Councillor to provide their explanation of events. They will be invited to provide any additional documents they, or the Monitoring Officer, consider relevant.
- 7.6 In exceptional cases, where it is appropriate to keep the Complainant's identity confidential, or disclosure of details of the Complaint to the Councillor might prejudice the investigation, the Monitoring Officer can remove any identifiable information from the papers given to the Councillor, or delay notifying the Councillor until the Initial Assessment has progressed sufficiently.
- 7.7 At the end of the Initial Assessment, the Monitoring Officer will produce an Assessment and will, in consultation with the Independent Person, determine whether:
- i. the Initial Assessment is correctly determined in line with the Code of Conduct and has taken all evidence into consideration;
  - ii. no further action is required, because the report finds no breach of the Code of Conduct; or
  - iii. the matter may be reasonably resolved by way of Informal Resolution as proposed in the Initial Assessment; or
  - iv. the matter should proceed to the Standards Committee; or
  - v. referral to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation.
- 7.8 A copy of the Initial Assessment shall be sent to the Complainant and the Councillor. At the discretion of the Monitoring Officer, where appropriate, a copy may also be sent to the Councillor's Group Leader, Chair of the Standards Committee, and the Chief Executive.
- 7.9 The Monitoring Officer shall have the discretion to notify other persons of their Initial Assessment decision (and the reasons for that decision) as they consider appropriate.

## **8. Timescale for Initial Assessment**

- 8.1 The Monitoring Officer will seek to complete their Initial Assessment within 20 working days of receiving all the information necessary for a Complaint. However, this process may on occasion take longer if additional information is required from the Complainant or Councillor for a proper assessment to be made. All parties will be kept informed of any revised timescale.

## 9. Informal Resolution

- 9.1 Following the Initial Assessment, the Monitoring Officer may seek to resolve the complaint without the need for a formal investigation by way of Informal Resolution. This may be appropriate:
- i. where it is apparent that the Councillor is relatively inexperienced as a Councillor or has admitted making an error, the complaint was not actuated by any malicious intent, and the matter would not warrant a more serious sanction.
  - ii. where training or an apology would be a more appropriate response.
- 9.2 Types of Informal Resolution might include:
- i. an explanation by the Councillor of the circumstances surrounding the complaint and an apology from the Councillor;
  - ii. an agreement from the Councillor to attend relevant training or to take part in a mentoring process;
  - iii. offering to engage in a process of mediation or conciliation between the Councillor and the Complainant; or
  - iv. any other action capable of resolving the complaint.
- 9.3 Where the Monitoring Officer seeks to resolve the complaint informally, they will provide the Councillor with a recommendation, together with a reasonable timescale within which to attempt to resolve the complaint. This will usually be 20 working days following a decision to recommend Informal Resolution by the Monitoring Officer.
- 9.4 Before deciding upon a course of action, the Councillor may seek guidance from the Leader of their political group, the Independent Person, and/or the Monitoring Officer. The Councillor may also seek independent legal advice and/or be represented by a Union.
- 9.5 The Monitoring Officer may also seek the Complainant's views to ascertain what form of Informal Resolution they would find acceptable, particularly if the form of resolution they have specified in their Complaint is not possible.
- 9.6 At the end of the 20 working day period, the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the Councillor has resolved the Complaint to the Complainant's satisfaction.
- 9.7 Where it has been possible to agree a resolution between the Councillor and the Complainant, there will be no further action taken on the complaint and the Monitoring Officer will notify both the Complainant and the Councillor of this decision.

- 9.8 Where it has not been possible to agree a resolution between the Councillor and the Complainant, the Monitoring Officer will decide if the complaint merits a Formal Investigation.
- 9.9 Where the Councillor makes a reasonable offer of Informal Resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in their decision and may impose the Informal Resolution themselves.
- 9.10 Where Informal Resolution is proposed, the Monitoring Officer can direct that the Councillor keeps the confidentiality of the matters discussed, and all other parties involved.

## **10. Formal Investigation**

- 10.1 If the Monitoring Officer decides that a Complaint merits Formal Investigation, they will appoint an Investigating Officer.
- 10.2 The Investigating Officer will consider the Initial Assessment and decide whether they need to meet or speak to the Complainant or Councillor again to obtain further details about the Complaint, and so that they can explain their understanding of events and suggest what documents they need to see, and who they need to interview.
- 10.3 The Investigating Officer will normally write to the Councillor and Complainant, and provide them with a copy of the Initial Assessment, if not already provided.
- 10.4 At the end of the investigation, the Investigating Officer will produce a draft report for the Sub-Committee and will send copies of that draft report, in confidence, to the Complainant and to the Councillor concerned, to give both an opportunity to identify any factual matter in the draft report which is disputed or requires further investigation. A copy of the draft report will also be sent to the Monitoring Officer. The Monitoring Officer will, within ten (10) working days of the receipt of the Investigating Officer's report, review the report.
- 10.5 Having received and taken account any comments that may be made on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.
- 10.6 The Monitoring Officer will, in consultation with the Independent Person, determine whether:
- i. the report is complete, or, where incomplete, should be referred back to the Investigating Officer or a newly appointed Investigating Officer;
  - ii. no further action is required, because the report finds no breach of the Code of Conduct;
  - iii. the matter may be reasonably resolved by way of Informal Resolution; or

iv. the matter should proceed to the Standards Committee.

10.7 A copy of the final report shall be sent to the Complainant and the Councillor. At the discretion of the Monitoring Officer, where appropriate, a copy may also be sent to the Councillor's Group Leader, Chair of the Standards Committee, and the Chief Executive.

## **11. Standards Committee**

- 11.1 If the Monitoring Officer considers that the Formal Investigation should be referred to the Standards Committee, or that an Informal Resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, the Monitoring Officer will take the Investigating Officer's report to the Standards Committee, before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.
- 11.2 The Standards Committee, with the benefit of any advice from the Independent Person, may conclude that the Councillor did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Standards Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair of the Committee will inform the Councillor of this finding and the Standards Committee will then consider what action, if any, it should take as a result of the Councillor's failure to comply with the Code of Conduct.
- 11.3 In doing this, the Standards Committee will give the Councillor an opportunity to make representations to it, and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter. Separate guidance of this procedure can be found at Appendix 2.

## **12. Sanctions**

- 12.1 The Council has delegated to the Standards Committee power to take action in respect of individual Councillors who have breached the Code of Conduct.
- 12.2 These sanctions appear in order of severity, but consideration should be given to the most appropriate sanction in any given circumstance.
- 12.3 Accordingly, the Standards Committee may:
- i) require the Councillor to apologise for their conduct;
  - ii) instruct the Monitoring Officer to arrange training for the Councillor;
  - iii) reprimand the Councillor in writing;

- iv) exclude the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council; Committee and Sub-Committee meetings, for such period as the Standards Committee considers appropriate;
- v) recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for such period as the Standards Committee considers appropriate;
- vi) recommend to the Group Leader to report to Full Council that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the Council for such period as the Standards Committee considers appropriate;
- vii) report its findings to Full Council for information.

12.4 The Standards Committee has no power to suspend or disqualify the Councillor or to withdraw Councillors' allowances.

### **13. Notification of Decision**

- 13.1 At the end of the Standards Committee, the Chair of the Committee will state the decision of the Standards Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions which it resolves to take.
- 13.2 Following consultation with the Chair of the Standards Committee and Independent Person, the Monitoring Officer shall issue the formal written decision notice to the Councillor and send a copy to the Complainant. The decision notice shall include reasons for the decision.
- 13.3 The Monitoring Officer will also make the summary of the decision notice available for public inspection and report the decision to the next ordinary meeting of the Standards Committee. This will be reported in Part I unless there are exceptional circumstances to justifying having some or all parts in Part II.

### **14. Appeals**

- 14.1 There is no right of appeal for the Complainant or Councillor against a decision of the Monitoring Officer or the Standards Committee.
- 14.2 There is a right of complaint to the Local Government Ombudsman.

## **15. Discontinuance of Complaints by Monitoring Officer**

- 15.1 The Monitoring Officer has a discretion to discontinue a complaint, or terminate an investigation, if they consider it appropriate to do so. They will have regard to whether the balance of the public interest lies in continuing to action the complaint, where the Councillor:
- i. ceases to be a Member of the Council or the Parish Council;
  - ii. has a long term or serious illness and is unable to participate in the procedure;
  - iii. has died.
- 15.2 Where a Complaint is discontinued, the Monitoring Officer will write to the Complainant and the Councillor setting out the reasons for their decision.
- 15.3 Should a Councillor become seriously ill or die, the Monitoring Officer shall exercise discretion with regard to contacting the Councillor and/or their next of kin.

## **16. Confidentiality**

- 16.1 Unless otherwise permitted under these arrangements, or required by legislation, a complaint (and all associated information and documents) that a Councillor has breached the Code of Conduct must remain confidential until such time that the Monitoring Officer or Standards Committee consider it appropriate to disclose the complaint. The Monitoring Officer or Standards Committee may decide that it should continue to remain confidential.
- 16.2 Unless, otherwise determined, the findings of the Standards Committee shall be made public in accordance with the guidance in Appendix 2.

## **17. Timescales**

- 17.1 The Formal Investigation shall be carried out promptly, with the expectation that all investigations and resolutions of the Standards Committee will be completed within a maximum period of four (4) months, starting from the date the Monitoring Officer refers the case to the Standards Committee.
- 17.2 Key dates in relation to the administration of the arrangements are set out in the body of the arrangements and shall act as targets to facilitate the swift

administration of the arrangements. However, if the deadlines are missed, this will not invalidate the procedure.

- 17.3 The Complainant and the Councillor will be informed should there be a delay in completing any stage of the process.

## **18. Independent Persons**

- 18.1 The Council has appointed at least one Independent Person. The Independent Person is a person who has applied for the post following advertisement and is appointed by a majority vote of Full Council. They are required by law to have no recent involvement with the Council or with any Town or Parish Council, either personally or by being related to a Councillor or officer.
- 18.2 Their views will be sought and taken into account in the Standards Complaints. They will usually be consulted at the initial assessment stage to ensure probity by obtaining an independent view. Where a case is very straightforward it may not be necessary to consult them at this stage.
- 18.3 They will always be consulted before a decision is made on an allegation that the Council has decided to formally investigate.

## **19. Complainant and Councillor Support**

- 19.1 Assistance and support shall be provided to the Complainant and Councillor throughout this process by the Deputy Monitoring Officers or Monitoring Officer as appropriate.
- 19.2 A Councillor against whom a complaint is made may seek the views of the Independent Person. If they wish to do so, they should contact the Monitoring Officer for the details of the Independent Person(s).

## **20. Annual Report**

- 20.1 The Monitoring Officer will submit an annual report to the Standards Committee. The report should include appropriate details of all Complaints received including those where no breach was found.

## Appendix 1 – Councillor Complaints Form

Note: This form is for use in making a complaint that an elected District councillor or parish or town councillor or a non-elected voting co-opted member of a Council has breached their Council's Code of Conduct.

Please refer to the [\*Standard Complaints Procedure: Arrangements for dealing with allegations of misconduct by Councillors under the Localism Act 2011\*](#) when completing this form.

### **Your details**

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint. However, we will tell the following people that you have made this complaint:

- the councillor(s) you are complaining about;
- the parish or town clerk (if the complaint is about a town or parish councillor).

We will normally send them a copy of your complaint including your name (unless it has been agreed that your name will not be disclosed). If you have serious concerns about your name and a copy of your complaint being released please read Section 4 of the [Procedure](#) and then complete 'Section 5: Request for my identity to be kept confidential' at the end of this form.

2. Please indicate which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Leader
- Opposition Leader

- Member of Parliament
- Monitoring Officer
- Other Council officer or employee
- Other (\_\_\_\_\_)

**Making your complaint**

The Council’s arrangements for dealing with complaints are attached. Please read these before completing the rest of this form.

3. Please provide us with the name of the person you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they consider your complaint.

For example:

- You should be specific wherever possible about exactly what you are alleging the councillor said or did. For example, if you are complaining that a councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the conduct you are complaining about and provide their names and contact details if possible.
- You should provide any relevant background information.

Please note that all documentation supplied will be scanned and saved within a database.

Please provide us with the details of your complaint:



YOUR SIGNATURE.....DATE.....

**Only complete this next section if you are requesting that your identity be kept confidential and not disclosed to the councillor(s) you are complaining about**

- 5. In the interests of fairness and natural justice we believe councillors who are complained about have a right to know who has made the complaint and that they have a right to see the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason.

Please note that requests for your identity to be kept confidential will not automatically be granted. Please read Section 4 of the [Procedure](#).

*Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:*

**ADDITIONAL INFORMATION**

- Your complaint must concern conduct that occurred while the person complained about was in office. Conduct of an individual before they were elected, co-opted, or appointed to the authority cannot be considered.
- Please refer to Section 6.1 of the [Procedure](#) for details about when a complaint is unlikely to be accepted.
- Your complaint must be about one or more named members of the following authorities –St Albans City and District Council, Harpenden Town Council, Colney Heath Parish Council, Harpenden Rural Parish Council, London Colney Parish Council, Redbourn Parish Council, Sandridge Parish Council, St Stephen Parish Council, St Michael’s Parish Council and Wheathampstead Parish Council.
- Your complaint must be that this person has, or may have, breached the Councillors’ Code of Conduct. A copy of the Code of Conduct is available at

<https://stalbens.moderngov.co.uk/documents/s50072678/05.1%20Councillors%20Code%20of%20Conduct%20-%20February%202023.pdf>

- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact the Monitoring Officer for help.

Your complaint should be sent by post or email to:

Judith Adamson

Monitoring Officer

St Albans City & District Council

Council Offices

St Peter's Street

St Albans

AL1 3JE

Email: [monitoringofficer@stalbens.gov.uk](mailto:monitoringofficer@stalbens.gov.uk)

Tel: 01727 819559

## **Establishing the Sub-Committee**

The [Standards Committee](#) has the power to appoint Sub-Committees and may authorise the Monitoring Officer to establish, when required, an ad hoc Sub-Committee to determine cases. Sub-Committees are established to conduct a substantive hearing of a Complaint which has reached Formal Investigation stage to determine the Complaint. In cases where the Monitoring Officer considers they cannot make the Initial Assessment a Sub-Committee will be established to decide on whether a Complaint merits Formal Investigation.

As soon as reasonably practicable after referring a completed Formal Investigation, the Monitoring Officer will convene a meeting of the Standards Sub-Committee.

The Monitoring Officer shall select the persons to comprise a Sub-Committee, in accordance with the following criteria:

- where the Complaint is against a District Councillor, the Sub-Committee will be made up of three (3) members of the Standards Committee;
- where the Complaint is against a Parish Councillor, the Sub-Committee will be made up of three (3) members of the Standards Committee and 1 non-voting Parish Councillor, other than a member of the same Parish Council as the Councillor against whom the Complaint was made. The Sub-Committee will consider the views of the non-voting Parish Councillor on the Sub-Committee when reaching their decision

Each Sub-Committee has delegated to it the powers of the Standards Committee in relation to the function it is established to exercise.

The Quorum for a Sub-Committee hearing for a Complaint against a District Councillor is three (3). The Quorum for a Sub-Committee hearing a Complaint against a Parish Councillor is four (4) including the non-voting Town/Parish Councillor.

## **Arrangements for and Conduct of the Standards Hearing Sub Committee Hearing**

There is a presumption of openness with regard to Sub-Committee Hearings will be conducted in open session unless the Sub-Committee resolve that the public be

excluded on one or more of the grounds permitted under Schedule 12A of the Local Government Act 1972.

Where the hearing itself is open to the public, the Sub-Committee's deliberations following the hearing will be held in private.

Care is needed to ensure that the published report detailing the allegation and investigation does not unlawfully disclose personal or special category personal data of any party. Accordingly, the Monitoring Officer shall have discretion to redact material from the published report where necessary for data protection purposes.

Where the complaint concerns the use of a word or expression which may be considered offensive, the wording will be placed within inverted commas, to indicate the words were those allegedly used by the Councillor.

To coincide with the publication of the hearing report, the Council shall (unless the Sub-Committee is being advised to consider excluding the public from the hearing) issue a press release about the hearing, which shall include an explanation of the Independent Person's role. Advice will be sought from the Council's Communications Team regarding the precise content of the release.

## **Representation**

The Councillor may be represented or accompanied during the Sub-Committee hearing by a solicitor, barrister or, with the permission of the Sub-Committee, another person.

Where a representative is present the Councillor must indicate if the representative is to ask questions on the Councillor's behalf and make any submissions. Once such arrangements have been confirmed, they will be applied throughout the hearing.

## **Legal Advice**

The Sub-Committee may take legal advice from the Monitoring Officer, Deputy Monitoring Officer or other Legal Adviser at any time during the hearing, while they are considering the final decision on the potential breach(es) of the Code of Conduct and when considering any sanctions.

Any legal advice given in private session will be summarised for the other parties at the reconvening of the hearing.

## The hearing

The Members of the Sub-Committee shall determine whether the hearing will be considered in private session, and shall, where possible, receive representations on this from the parties involved. If the proceedings are in open session, they will be recorded.

### Presenting evidence:

1. The **Investigating Officer** will be invited to present the report, including any evidence or other material, and make any representations to support the relevant conclusions on a case to answer from the report. This will be based on:
  - the complaint made to the Council
  - any alleged failure to co-operate with the investigation or hearing preparation.
2. Witnesses will be called to give evidence or have their evidence taken as accepted, where the Councillor has indicated that the witness evidence is not disputed.
3. Members of the Sub-Committee, the Independent Person and the Monitoring Officer, Deputy Monitoring Officer or Legal Adviser may question the Investigating Officer about the content of the report and/or any called by the Investigating Officer.
4. The **Councillor against whom the complaint has been made** (or their representative) may question the Investigating Officer. This is the Councillor's opportunity to ask questions arising from the report and not to make a statement.
5. The Councillor will then be given the opportunity to present their case, call any relevant witnesses, and make any representations to address the specific allegations before the Sub-Committee.
6. The Investigating Officer may question the Councillor and/or any witnesses.
7. Members of the Sub-Committee, the Independent Person and the Monitoring Officer, Deputy Monitoring Officer or Legal Adviser may question the Councillor and/or any of the Councillor's witnesses.
8. The Investigating Officer will be given the opportunity to **sum up** the Complaint and any relevant representations on the case to answer. The Councillor, or their representative, will be given the opportunity to sum up their case.

## Reaching a Decision

Members of the Sub-Committee will deliberate in private session to consider the evidence presented and to reach their decision. During deliberations, the Monitoring Officer, Deputy Monitoring Officer, or Legal Adviser will attend to provide any advice needed.

In accordance with statutory requirements, after the evidence is heard and before the decision is made, the Sub-Committee will consult the Independent Person.

The Independent Person may seek a short adjournment of the hearing to consider whether in their view a breach of the Code of Conduct has occurred. The hearing will then be reconvened, and members of the Sub-Committee must consult the Independent Person on whether in their opinion a breach has occurred. This view must be taken into account by the Sub-Committee before it makes its decision on an allegation.

The decision of the majority of the Sub-Committee's Members shall constitute the decision of the Sub-Committee.

After receiving representations, the Sub-Committee may retire further to consider what sanction, if any, to impose.

The decision of the Sub-Committee should be owned collectively by all its Members and Sub-Committee Members should, as far as reasonably practicable, avoid statements or actions that undermine public confidence in the complaints process.

Range of decisions available to the Sub-Committee are:

- (i) find that the Councillor has failed to comply with the Council's, or Parish/Town Council's Code of Conduct in one or more respects;
- (ii) find that the Councillor did not fail to comply with the Council's, or Parish/Town Council's Code of Conduct;
- (iii) make no finding in respect of the allegation(s). It is open to the Sub-Committee merely to note the issues raised by the Complaint and, if appropriate, to make recommendations which address them.

Even where the Sub-Committee finds a breach, it is not obliged to take action in respect of the Councillor. In accordance with section 28(11) of the Localism Act, it must have regard to the failure in deciding whether to take action and, if so, what action to take.

Neither the Sub-Committee nor any other body of the Council has power to suspend or disqualify a Councillor or to withdraw their basic or special responsibility allowance.

### **Sanctions for Failure to Comply with the Code**

Where a Sub-Committee finds that a substantive breach has occurred it can impose Sanctions as set out in Section 12 above, and reiterated here:

- i. report its findings to Full Council for information;
- ii. reprimand the Councillor;
- iii. recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for such period as the Standards Committee considers appropriate;
- iv. instruct the Monitoring Officer to arrange training for the Councillor;
- v. require the Councillor to apologise for their conduct;
- vi. recommend to the Council that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the Council for such period as the Standards Committee considers appropriate;
- vii. withdraw printing facilities provided to the Councillor by the Council, for such period as the Standards Committee considers appropriate; and/or
- viii. exclude the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, Committee and Sub-Committee meetings, for such period as the Standards Committee considers appropriate.

### **Parish or Town Council**

If there is a finding by the Sub-Committee that there has been a failure by a Parish/Town Councillor to comply with their Parish/Town Council's Code of Conduct, the Sub-Committee will instruct the Monitoring Officer to report this to the Parish/Town Council for them to decide what, if any, action to take.

The Sub-Committee may in these circumstances make recommendations to the Parish/Town Council about whether the Parish/Town Council takes any action and what action to take.

## **Decision**

The Chair of the Sub-Committee will confirm that a full written decision will be issued within 10 working days of the hearing and the Sub-Committee's minutes will be published. The hearing will then be closed.



