



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority or of a town or parish council within its area has failed to comply with the authority’s Code of Conduct, and sets out how the District Council will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a town or parish council within the authority’s area, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the District Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Monitoring Officer at any other stage, or by a member or a member or co-opted member of a town or parish council against whom an allegation has been made.

2 The Code of Conduct

South Kesteven District Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from the Monitoring Officer of the District Council.

Each town and parish council is also required to adopt a Code of Conduct. If you wish to inspect a town or parish council’s Code of Conduct, you should inspect any website operated by the town or parish council and request the town or parish clerk to allow you to inspect the town or parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
E-mail – s.ismail@southkesteven.gov.uk

Or write to – South Kesteven District Council
Council Offices, St. Peter's Hill,
Grantham, Lincolnshire. NG32 6PZ

The monitoring officer is an officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, and is available on request from the District Council Offices. Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The monitoring officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The monitoring officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the monitoring officer has taken a decision, you will be informed of that decision and the reasons for that decision.

If additional information is required in order to come to a decision, the monitoring officer may come back to you for such information and may request information from the member against whom your complaint is directed. Where your complaint relates to a town or parish Councillor, the monitoring officer will also inform the town or parish Council of your complaint and seek the views of the town or parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the monitoring officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the monitoring officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the monitoring officer has the authority to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

If the monitoring officer decides that a complaint merits formal investigation, an investigating officer will be appointed, who may be another officer of the authority, an officer of another authority or an external investigator. The investigating officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the investigating officer needs to see, and who the investigating officer needs to interview.

The investigating officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the monitoring officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of the investigation, the investigating officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the investigating officer will send a final report to the monitoring officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The monitoring officer will review the investigating officer's report and, if satisfied that the investigating officer's report is sufficient, the monitoring officer will write to you and to the member concerned and to the town or parish Council, where your complaint relates to a town or parish Councillor, notifying you that they are satisfied that no further action is required, and give you both a copy of the investigating officer's final report. If the monitoring officer is not satisfied that the investigation has been conducted properly, he may ask the investigating officer to reconsider their report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The monitoring officer will review the investigating officer's report and will then either send the matter for local hearing before the Review Board or, after consulting the Independent Person, seek local resolution.

8 Local Resolution

The monitoring officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the monitoring officer will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the monitoring officer will report the matter to the Independent Person and the town or parish Council for information but will take no further action. However, if you tell the monitoring officer that any suggested resolution would not be adequate, the monitoring officer will refer the matter for a local hearing by the Review Board.

9 Local Hearing

If the monitoring officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the monitoring officer will report the investigating officer's report to the Review Board which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The District Council has agreed a procedure for local hearings, which is attached as an appendix to these arrangements.

The monitoring officer will conduct a "pre-hearing process", requiring the member to give his/her response to the investigating officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Review Board may issue directions as to the manner in which the hearing will be conducted. At the hearing, the investigating officer will present their report, call such witnesses as they consider necessary and make representations to substantiate the conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the investigating officer may ask you as the complainant to attend and give evidence to the Review Board. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Review Board as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Review Board, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Review Board concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Review Board will then consider what action, if any, the Review Board should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Review Board will give the member an opportunity to make representations to the hearing and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

10 What action can the Review Board take where a member has failed to comply with the Code of Conduct?

The District Council has delegated to the Review Board such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Review Board may

- (1) Censure or reprimand the member;
- (2) Publish its findings in respect of the member's conduct;
- (3) Report its findings to District Council or to the town or parish council for information;
- (4) Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (5) Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- (6) Recommend to Council that the member be replaced as Executive Leader;
- (7) Instruct the monitoring officer to or recommend that the town or parish council arrange training for the member;
- (8) Remove or recommend to the town or parish council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the town or parish council;
- (9) Withdraw or recommend to the town or parish council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- (10) Exclude or recommend that the town or parish council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Review Board has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

11 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Review Board as to whether the member failed to comply with the Code of Conduct and as to any actions which the Review Board resolves to take. As soon as reasonably practicable thereafter, the monitoring officer shall prepare a formal decision notice in consultation with the Chair of the Review Board, and send a copy to you, to the member and to the town or parish council, make that decision notice available for public inspection and where the decision relates to a district councillor, report the decision to the next convenient meeting of the Council.

12 Who are the Review Board?

The Council has determined that it will comprise a maximum of three members of the Licensing Committee. The Independent Person is invited to attend meetings of the Review Board when it sits to hear investigations into complaints relating to the Members' Code of Conduct and his views are sought and taken into consideration before the Review Board takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

13 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council to act as the Independent Person in accordance with the Localism Act 2012.

14 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Review Board the right to depart from these arrangements where they considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

15 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Review Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.