

North Tyneside Council

Standards Committee

Code of Conduct for Member and Co-opted
Members

Arrangements for Dealing with Allegations of
Breaches of the Code of Conduct for
Members and Co-opted Members

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Arrangements for Dealing with Allegations of Breaches of the Code of Conduct for Members and Co-opted Members

1. Context

These arrangements set out how the Authority will deal with a complaint that an elected or co-opted member of the Council, has failed to comply with the Authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Authority must have in place "arrangements" under which allegations that a Member or Co-opted Member of the Council or a Committee or Sub-Committee of the Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or a Member or Co-opted Member against whom an allegation has been made. The Authority has appointed ~~two~~ three Independent Persons.

2. The Code of Conduct

The Authority has adopted a Code of Conduct for Members and Co-opted Members, which that is attached as Appendix 1 to these arrangements and which is available for inspection on the Authority's website. It is incorporated into the Authority's Constitution.

3. Receipt of a complaint

A complaint against a Member or Co-opted Member will be sent by the Complainant in writing or by email to –

The Monitoring Officer
Legal, Governance and Commercial Services
Quadrant,
Silverlink North,
Cobalt Business Park,
North Tyneside,
NE27 0BY

Or – standards.committee@northtyneside.gov.uk

The Monitoring Officer is the senior officer of the Council 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 the Authority has all the information which it needs to be able to process a complaint, the complaint form at Appendix 2 must be completed and submitted. The complaint form is available from the Authority's website.

The Monitoring Officer will acknowledge receipt of the complaint to the Complainant and provide the subject member of the complaint, with a copy of the complaint within 5 working days of receiving it, and will keep all parties informed of the progress of the complaint. The Monitoring Officer will also seek comments from the subject member of the complaint to assist in the initial assessment of the complaint.

4. Request for confidentiality

If a Complainant wants to keep their name and address confidential, they are required to indicate this in the space provided on the complaint form. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

To ensure openness and transparency confidentiality will only be granted in exceptional circumstances and in many instances it would not be practical or possible to investigate a complaint without the identity of the complainant being revealed. If however confidentiality is granted and the complaint proceeds the Monitoring Officer will determine whether or when the subject member will be advised of the complaint and the identity of the complainant. The procedure set out below will be adjusted as appropriate to accommodate the decision of the Monitoring Officer.

Where a request for confidentiality is refused by the Monitoring Officer, the Complainant will be advised of that refusal and will be given the option to withdraw the complaint within 7 working days. If the complaint is withdrawn the matter will be then closed and the subject member will not be informed of the complaint. If the Complainant refuses to withdraw the complaint or does not respond within the specified timescale, then the subject member will be sent a copy of the complaint and the complaint will proceed as set out in paragraph 5 below.

5. Will the complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Persons and consideration of the initial comments of the subject member decide whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct and the application of the Authority's adopted assessment criteria (attached at Appendix 3). This decision will normally be taken within 28 days of receipt of the complaint. The parties will be advised of the Monitoring Officer's decision together with the reasons for that decision— subject to any decision on confidentiality arising as referred to above.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may go back to the Complainant for such information, and may request information from the subject member of the complaint.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer may refer the complaint to the Police or other regulatory agencies irrespective of a request for confidentiality by the Complainant.

A copy of the Subject Member's initial comments will normally be provided to the Complainant with the assessment decision unless there are particular reasons, in the view of the Monitoring Officer, not to.

6. Informal Resolution

The Monitoring Officer may consider that a complaint can be reasonably resolved informally. In such a case, the Monitoring Officer will consult with two of the the Independent Persons, the subject member and the Complainant to seek to agree a fair resolution of the complaint which also helps to ensure high standards of conduct for the future. If the subject member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

7. How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be another officer of the Council, an officer of another Council or an external investigator.

The Investigating Officer will write to the subject member and will ask them to provide their explanation of events, and to identify what documents or other materials they believe the Investigating Officer needs to see and interview.

The Investigating Officer will decide whether he/she needs to meet or speak to Complainant to understand the nature of the complaint and so that the Complainant can explain their understanding of events and suggest what documents or other materials the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the subject member and to the Complainant, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. A copy of the draft report will also be sent to the Monitoring Officer.

Having received and taken account of any comments which the Complainant or subject member may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Standards Committee will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient and they agree that there is no evidence of a failure to comply with the Code of Conduct, they will instruct the Monitoring Officer to write to the subject member and to the Complainant, notifying both that they are satisfied that no further action is required, and give both a copy of the Investigating Officer's final report.

If the Standards Committee do not agree with the conclusion that there is no evidence of a failure to comply with the Code of Conduct they will refer the matter for a hearing before the Committee or its Sub-Committee.

In considering the report, the Standards Committee/Sub-Committee will consult with the Authority's Independent Persons.

If the Standards Committee is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider his/her report. Upon the receipt of the report back from the Investigating Officer the Committee will consider whether to accept the report or refer it to a hearing.

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

a. Local Resolution

Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, there may still be an opportunity for local resolution, avoiding the necessity of a hearing. An investigation report may cause a member to recognise that his/her conduct was at least capable of giving offence, and /or identify other appropriate remedial action, and the Complainant may be satisfied for instance, by recognition of fault or an apology. It would only be appropriate for the Monitoring Officer to agree a local resolution at this stage after consultation with two of the Authority's Independent Persons and the Chair of the Standards Committee. In addition this would be conditional on the Complainant being satisfied with the outcome. A summary report on any local resolution of a complaint would be reported to the Standards Committee for information.

b. Referral for Hearing

If local resolution was not possible, the Monitoring Officer will then refer the matter for a hearing before the Committee/Sub-Committee.

9. The Hearing

Where the Standards Committee/Sub-Committee has referred a matter for a hearing the procedure at Appendix 4 will apply.

10. What action can the Standards Committee/Sub-Committee take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee/Sub-Committee 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 Standards Committee may –

- (i) Issue a formal censure;
- (ii) Refer the determination findings to full Council for information;
- (iii) Make publication of the determination findings by such means as thought fit;
- (iv) Request Council to remove the member from being the Chair or Deputy Chair of any Committee or Sub-Committee
- (v) Request the subject member's political group to remove them from any or all Committees or Sub-Committees for a specified period;
- (vi) Request the Elected Mayor to remove the member from the Cabinet, if a Cabinet Member, or from particular Portfolio responsibilities;
- (vii) Request the Council to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the Council;
- (viii) Request the Elected Mayor to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the executive.
- (ix) Offer training to the member; or
- (x) Exclude the member from the Council's offices or other premises or facilities, for a specified period and to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member.

The Standards Committee has no power to suspend or disqualify the subject member or to withdraw or suspend allowances or restrict access to or use of Council facilities so that the subject member is unable to perform your essential role as a councillor.

11. What happens at the end of the Hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether you have failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.

As soon as reasonably practicable after that, the Monitoring Officer in consultation with the Chair of the Committee, will prepare a formal decision notice, and send a copy to you and the Complainant, make that decision notice available for public inspection on the Council's website and, if so directed by the Standards Committee, report the decision to the next convenient meeting of the Council.

12. Review of decisions

Procedures for the review of decisions are set out in Appendix 5.

13. What is the Standards Committee?

The Standards Committee is a politically balanced Committee of Council. It is consists of nine Members of the Council who are drawn from each political party. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Persons are invited to attend meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether a 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.

The Independent Persons do not, however, have voting rights on the Committee. Their role is an advisory one.

14. Who are the Independent Persons?

The Independent Persons are persons who have applied for the post following advertisement of a vacancy for the role, and are appointed by the Council.

A person does not qualify as "independent", if they are (or at any time in the last 5 years have been) a Member, Co-opted Member or officer of the Council, or if they are a relative or close friend of such a Member, Co-opted Member or officer. "Co-opted" member is defined so as to include current independent members of Standards Committee.

For this purpose, "relative" comprises –

- (a) a spouse or civil partner;
- (b) any person with whom the candidate is living as if they are a spouse or civil partner;
- (c) a grandparent;
- (d) any person who is a lineal descendent of a grandparent;
- (e) a parent, brother, sister or child of anyone in paragraphs (a) or (b);
- (f) any spouse or civil partner of anyone within paragraphs (c), (d) or (e); or
- (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

| The Council has ~~two~~three Independent Persons to ensure the availability of an Independent Person for consultation at all appropriate times and to avoid any conflicts of interest arising, as an Independent Person must also be available to be consulted by a Member who is the subject of a misconduct complaint.

15. Revision of these arrangements

The Standards Committee, on the advice of the Monitoring Officer, may depart from these arrangements where it is necessary to do so in order to secure the effective and fair consideration of any matter. The arrangements will also be subject to periodic review by the Council.

North Tyneside Council

Code of Conduct for Elected Members and Co-opted Members

North Tyneside Council (“the Authority”) has adopted the following code which has effect from 4 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Authority when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Authority (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Authority.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Authority with a right to vote but who is not one of its elected members.

The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

Part 1 - General Conduct

1. You must treat others with respect, including Authority officers and other elected members.
2. You must not bully any person (including specifically any Authority employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Authority which seeks to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the

provisions of this code of conduct and which is listed in Annex 4 to this Code.

7. When using or authorising the use by others of the resources of the Authority, you must act in accordance with the Authority's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Authority which is subsequently subject to scrutiny by an Overview, Scrutiny and Policy Development committee of the Authority, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Authority in order to reach a view as to its merits or effectiveness.
11. You must not do anything that would cause you to breach any equality laws. For example, you must not make sexist and/or racist remarks.
12. You must report any suspicion you have or any intelligence/information you have received on any safeguarding issue regarding children or vulnerable adults, including potential or actual sexual exploitation, to the Authority and where appropriate the Police.

Part 2 - Registration of interests

13. You must register in the Authority's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:
 - (a) any Disclosable Pecuniary Interest as set out in Annex 2;
or
 - (b) any other interest held by you as set out in Annex 3.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Authority; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)

14. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

Part 3 – Non-registerable interests

15. You will have a non-registerable personal interest when you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision.

16. The persons referred to in paragraph 15 are:

- (a) a member of your family;
- (b) any person with whom you have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) “A member of your family” means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
- (b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

17. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a non-

registerable interest in an item of business (as defined in paragraph 15) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

Part 4 - Non-Participation in Authority Business

18. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 19 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must :
 - (a) Declare that fact to the meeting;
 - (b) Not participate (or further participate) in any discussion of the matter at the meeting;
 - (c) Not participate in any vote (or further vote) taken on the matter at the meeting; and
 - (d) Leave the room whilst the matter is being discussed.
19. The criteria for the purposes of paragraph 18 are that:
 - (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
 - (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 16 or in any of your register entries; or
 - (c) The matter concerns a request for any permission, licence, consent or registration sought by yourself or any of the persons referred to in paragraph 16 or in any of your register entries.
20. If an Authority function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by you in that way which meets the criteria set out in paragraph 19, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraphs 18 to 20 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)
21. Paragraphs 18 to 20 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Authority:
 - (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
 - (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;

- (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

Annex 1 to Code of Conduct

Nolan's Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Annex 2 to Code of Conduct

Disclosable Pecuniary Interests

(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)

Please Note: The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):-

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Authority:

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land which is within the area of the Authority.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge):

- (a) the landlord is the Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities of a body where:

- (a) that body (to your knowledge) has a place of business or land in the area of the Authority; and
- (b) either:

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Annex 3 to Code of Conduct

Other Registerable Personal Interests

The other interests which you must register under paragraph 11(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Authority;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Authority.

Note: These mean only your interests and not those of your spouse or civil partner

Annex 4 to Code of Conduct

Associated Protocols

The Authority has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

[None]



North Tyneside Council

Code of Conduct for Members and Co-opted Members of North Tyneside Borough Council

COMPLAINT FORM

This form can be either completed by hand and posted or faxed to the Monitoring Officer, or completed on a computer. If it is completed on a computer it can either be e-mailed to the Monitoring Officer, or printed and then posted or faxed. Address details are found at the end of the form.

What this form is for

This form is for registering a complaint that an Elected Member or Co-opted Member of North Tyneside Council has breached the Code of Conduct as adopted by the Authority with affect from 1 July 2012. This form can be found on the Standards Committee page of the North Tyneside Council website (www.northtyneside.gov.uk).

The points listed below will help you decide whether this is the correct form to use when making your complaint.

- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the Council, or after they have resigned or otherwise ceased to be a member, cannot be considered.
- The Code of Conduct came into effect on 1 July 2012. If your complaint concerns matters that occurred before this date you should contact the office of the Monitoring Officer before making your complaint.
- Your complaint must be about one or more named members of North Tyneside Council.
- Your complaint must be that the member(s) has, or may have, breached the Code of Conduct.
- Complaints about dissatisfaction with a decision or action of the Authority or one of its committees, a service provided by the Authority or the Authority's procedures do not fall within the jurisdiction of the Standards Committee. Complaints about the actions of people employed by the Authority also do not fall within the jurisdiction of the Standards Committee.

If your complaint does not meet these criteria you should make use of the Council's Corporate Complaints Procedure by contacting:

Customer and Member Liaison Office
Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY
Tel: 0191 643 2280
customerliaisonoffice@northtyneside.gov.uk

Explanation of the Complaints Process

Complaints against Members of the Council are the responsibility of the Authority's Standards Committee. Complaints must be made in writing to the Monitoring Officer.

The first stage of the process is that normally within 28 days of receipt the Authority's Monitoring Officer will consider your complaint. It is not the task of the Monitoring Officer to consider whether or not the Member concerned has broken the Code of Conduct. Rather, he/she will decide whether the matter warrants referral for investigation or other action. Only if the matter is referred for investigation will the substance of the complaint be considered and a decision made about whether or not the Code has been breached.

The Monitoring Officer will decide:

1. whether the allegation, if proven, would constitute a failure to observe the Code of Conduct;
2. if it would constitute such a failure, whether the allegation is to be investigated. This decision will be guided by the Council's Assessment Criteria. The Assessment Criteria are available from the Monitoring Officer;
3. where the decision is not to investigate the allegation, whether to direct the Monitoring Officer to pursue an alternative course of action such as training for the Member concerned or conciliation between the complainant and the Member.

The Monitoring Officer will produce a summary of his decision, and to send it to the complainant and to the Member concerned unless to do so would in his/her opinion prejudice a subsequent investigation.

If an allegation is considered to require investigation, the matter will be referred by the Monitoring Officer for the investigation of the allegation.

Following the completion of an investigation into an allegation, unless the complaint can be resolved informally, the Council's Standards Committee will meet to consider the allegation and the findings of the investigation.

If the allegation is upheld and a breach of the code of conduct is found the Standards Committee have a range of sanctions available to them.

Any queries regarding the Complaints process should be directed to the Monitoring Officer at the address at the end of this form.

Making Your Complaint

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 Member(s) you are complaining about
- the Council's Independent Person(s) with whom the Monitoring Officer must consult before deciding whether the matter warrants referral for investigation or other action.
- the Standards Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary or details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member of an authority
- ☐ Member of Parliament
- ☐ Monitoring Officer
- ☐ Other council officer or authority employee
- ☐ Other ()

3. Please provide us with the name(s) of the Member(s) of North Tyneside Council whom you believe has breached the Code of Conduct:

Title	First name	Last name

4. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is very important that you provide all the information you wish to have taken into account by the Monitoring Officer when he/she decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member 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 alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete Section 5 if you are requesting that your identity be kept confidential.

5. In the interests of fairness and natural justice, we believe Members who are complained about should be informed of who has made the complaint and be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint other than in exceptional circumstances.

The Monitoring Officer will consider the request for confidentiality as a preliminary matter before the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

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

Additional Help

6. Complaints must be submitted in writing. Fax and electronic submissions are permissible. However, in line with the requirements of equalities legislation, we can make reasonable adjustments to assist you if you have an impairment that prevents you from making your complaint in writing.

We can provide information in other languages and in different formats, such as large print. An interpreter/translator service is also available if English is not your first language. If you have any problems in reading or writing, or need any support in completing this form, let us know. We can also help you find independent advice if needed.

If this applies to you please contact the office of the Monitoring Officer at the address given below.

The completed form should be sent to:

The Monitoring Officer
North Tyneside Council
Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

Email: standardscommittee@northtyneside.gov.uk

Faxes should be marked 'For the attention of the Monitoring Officer' and sent to 0191 643 2451.

Code of Conduct for Members - Assessment Criteria

The following criteria will be taken into account in deciding what action, if any, to take in relation to a complaint that a member has failed to comply with the requirements of the Code of Conduct for Members:

1. Has the complainant submitted enough information to satisfy the Monitoring Officer (or the Standards Committee if appropriate) that the complaint should be referred for investigation or other action?

If not:

the information provided is insufficient to make a decision. So unless, or until, further information is received, no further action will be taken on the complaint.

2. Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the Monitoring Officer of that other authority?

If yes:

The complaint will be referred to the Monitoring Officer of that other authority to consider.

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If yes:

There may be nothing more to be gained by further action being taken.

4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now?

If yes:

Further action may not be warranted.

5. Does the complaint appear not sufficiently serious to justify the cost or inconvenience of further action?

If yes:

Further action will not be warranted.

6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If yes:

Further action will not normally be warranted.

7. Is the complaint anonymous?

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

Procedure for Standards Hearings

1. Introduction

This Appendix details the procedure to be adopted for the hearing of complaints by the Standards Committee or Standards Sub-Committee ('the Standards Committee') of North Tyneside Council where an investigation has been completed.

The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

The Chair of the Standards Committee's primary responsibility is to ensure that a hearing is conducted in a fair yet timely manner and to minimise delay in reaching a decision on a complaint. The Chair of the Standards Committee may decide that a hearing of a complaint will proceed in the absence of a relevant party where the Chair is of the view that it is proper to proceed and to prevent unreasonable delay.

2. Legal Advice to the Standards Committee

Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Standards Committee in respect of the allegation.

3. Notifying the Member and Complainant

The Monitoring Officer shall send a copy of the Investigating Officer's final report to the Member, the Complainant and the Independent Persons.

The Monitoring Officer will ask for a written response from the Member within 14 days, stating whether or not s/he:

- disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
- wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Standards Committee, either verbally or in writing;
- wants to call relevant witnesses to give evidence to the Standards Committee;
- wants any part of the hearing to be held in private;

- wants any part of the report or other relevant documents to be withheld from the public

See Forms A to E at Appendix 6.

The Monitoring Officer will also inform the Member that if, at the meeting of the Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

The Monitoring Officer will also seek the views of the Independent Persons on the report and on any action the Independent Persons feel should be taken in respect of it.

Upon receipt of the responses, the Monitoring Officer will discuss the responses of with the Chair of the Standards Committee and will complete the Pre-hearing Process Summary at Appendix 7.

The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

Nothing in this procedure shall limit the Chair of the Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Standards Committee to reach its decision.

The Chair of the Standards Committee, in consultation with the legal adviser will then:

- confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed;
- confirm the main facts of the case that are agreed;
- confirm the main facts that are not agreed;
- confirm which witnesses will give evidence;
- outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private; and
- request the Monitoring Officer to provide this information, with the Agenda, to everyone in the hearing at least two weeks before the proposed date of the hearing.

4. The Standards Committee

The Standards Committee shall decide, on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

Each Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast.

The meeting of the Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

5. Procedure at the Hearing

The initial order of business at the meeting shall be as follows:

- declarations of interest;
- consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
- introductions;
- any representation from the Investigating Officer and/or the Member as to reasons why the Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Standards Committee decides that it will not exclude press and public, the Monitoring Officer shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Standards Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

The Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

Examination of report and written representations

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.

The Committee must also take account of the views expressed by the Independent Persons in their response to the Monitoring Officer.

Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member, will not be permitted to directly question the Investigating Officer or the witnesses he/she calls.

If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the Investigating Officer shall draw this to the attention of the Standards Committee. The Standards Committee may then decide:

- not to admit such dispute but to proceed to a decision;
- to admit the dispute, but to invite the Investigating Officer to respond
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute

Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Standards Committee.

The Standards Committee may adjourn the hearing to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

Decision by the Standards Committee

The Standards Committee will consider in private session which of the following findings to adopt:

- that there is no evidence of any failure to comply with the Code of Conduct;
- that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed.

The available sanctions are:-

- (i) Issue a formal censure;
- (ii) Refer the determination findings to full Council for information;
- (iii) Make publication of the determination findings by such means as thought fit;
- (iv) Request Council to remove the member from being the Chair or Deputy Chair of any Committee or Sub-Committee
- (v) Request the subject member's political group to remove them from any or all Committees or Sub-Committees for a specified period;
- (vi) Request the Elected Mayor to remove the member from the Cabinet, if a Cabinet Member, or from particular Portfolio responsibilities;
- (vii) Request the Council to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the Council;
- (viii) Request the Elected Mayor to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the executive.
- (ix) Offer training to the member; or
- (x) Exclude the member from the Council's offices or other premises or facilities, for a specified period and to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member.

In deciding what penalty (if any) to set, the Standards Committee will consider all relevant circumstances including any views expressed by the Independent Persons.

The Standards Committee will then resume the public session and the Chair will announce the decision and the reasons for that decision.

If the matter is a complicated one, where the complaint has a number of aspects, the Standards Committee can decide to consider the evidence and reach a finding on each aspect separately.

The Standards Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

Notice of findings

The Monitoring Officer will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared as soon as possible.

Within two weeks of the end of the hearing, the Monitoring Officer will circulate a full written decision, to the Member and the Complainant.

At the same time the Monitoring Officer shall arrange for a summary of the findings to be published as may be directed by the Standards Committee.

Where the Standards Committee determines that there has not been a breach of the Code of Conduct, the notice shall:

- state that the Standards Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and not be published if the Member so requests;

Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice shall:

- state that the Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure specify the details of the failure; and give reasons for the decision reached;

Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:

- state that the Standards Committee found that the Member had failed to comply with the Code of Conduct;
- specify the details of the failure;
- give reasons for the decision reached; and
- specify the sanction imposed

Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

Confidentiality and disclosure of information

Where the Chair of the Standards Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Standards Committee.

Review of Decisions

Initial Assessment Decisions

If a complainant is aggrieved by a decision by the Monitoring Officer to not investigate a complaint then the Complainant may request the Monitoring Officer to reconsider their decision.

The Monitoring Officer will consult the Independent Person not previously consulted on the Initial Assessment of the complaint and the Chair of the Standards Committee, and take their views into account, before deciding whether to uphold or vary their original decision.

Findings of Standards Committee following a hearing

If a member is aggrieved by a finding of Standards Committee that they have failed to comply with the Code, or with the sanction imposed, they may request a review by an Independent Person from another local authority in accordance with the following procedure:

The member must request a review, with their detailed reasons for seeking a review, within 5 working days of the publication of the decision notice otherwise the decision of the Standards Committee will become final.

The request for a review must be in writing and must be submitted to the Monitoring Officer.

If a request for a review is received, the decision of the Standards Committee will be held in abeyance pending completion of the review process.

If a request for a review is received the decision of the Standards Committee (including all the papers considered by the Governance Committee) will be referred to an Independent Person of a neighbouring local authority. The Independent Person will review the case on the information provided and will provide a report to the Standards Committee. The report to the Standards Committee will provide any comments the Independent Person considers are appropriate and relevant taking into account the basis of the request for review from the Member.

Upon the receipt of the Independent Person's report, the Standards Committee will consider the Independent Person's comments, the reasons submitted for the review by the Member and will determine whether to confirm the decision of the Standards Committee, amend the decision or substitute it with an alternative decision – this could include concluding that no breach of the Code occurred.

No further right of appeal or review of the Standards Committee's decision within the Authority is available. However, if the Member or the Complainant considers that the Authority has failed to deal with the complaint properly, they may make a complaint to the Local Government Ombudsman.



North Tyneside Council

Appendix 6

FORM A

Subject Member's response to the evidence set out in the Investigation Report

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigation Report, and give your reasons and your suggested alternative.

Paragraph number from the Investigation Report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read
1		
2		
3		
4		
5		

Please attach separate sheets if necessary

Name _____ Signature _____ Date _____



North Tyneside Council

FORM B

Other evidence relevant to the allegation

Please set out below, using the numbered paragraphs, any evidence you feel is relevant to the complaint made about you.

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	
6	

Please attach separate sheets if necessary

Name _____ Signature _____ Date _____



North Tyneside Council

FORM C

Representations to be taken into account if a Member is found to have failed to follow the Council's Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a Member has failed to follow the Council's Code of Conduct. Please note that no such finding has yet been made.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether to sanction any censure, restriction of resources or allowances, suspension or partial suspension
1	
2	
3	
4	

Please attach separate sheets if necessary

Name _____

Signature _____

Date _____



North Tyneside Council

FORM D

Arrangements for the Standards Committee Hearing

Please tick the relevant boxes.

1 Are you planning to attend the Standards Committee hearing on the proposed date in the accompanying letter? If, 'No', please explain why.	YES ☐ NO ☐	Reason: _____ _____ _____ _____ _____
2 Are you going to present your own case?	YES ☐ NO ☐	
3 If you are not presenting your own case, will a representative present it for you? If 'Yes', please state the name of your representative.	YES ☐ NO ☐	Name: _____ _____ _____ _____ _____
4 Is your representative a practising solicitor or barrister? If 'Yes', please give their legal qualifications. Then go to Question 6. If 'No', please go to Question 5.	YES ☐ NO ☐	Qualifications: _____ _____ _____ _____ _____

5 Does your representative have any connection with the case? If 'Yes' please give details.	YES ☐ NO ☐	Details:
6 Are you going to call any witnesses? If 'Yes' please give details on Form E attached.	YES ☐ NO ☐	
7 Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? If 'Yes', please give details.	YES ☐ NO ☐	Details:
8 Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? If 'Yes', please give details.	YES ☐ NO ☐	Details:
9 Do you want any part of the hearing to be held in private? If 'Yes', please give reasons.	YES ☐ NO ☐	Reasons:

10	Do you want any part of the relevant documents to be withheld from public inspection?	YES ☐	Reasons:
If 'Yes', please give reasons.	NO ☐		

Name _____

Signature _____

Date _____



North Tyneside Council

FORM E

Details of proposed witnesses to be called

Name of witness or witnesses

- 1 _____
- 2 _____
- 3 _____

WITNESS 1

a Will the witness give evidence about the allegation?

If 'Yes', please provide an outline of the evidence the witness will give.

YES

☐

NO

☐

Outline of evidence:

b Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed?

If 'Yes', please provide an outline of the evidence the witness will give.

YES

☐

NO

☐

Outline of evidence:

Please attach separate sheets if necessary

[illegible]

Date



Checklist for the pre-hearing process summary

After the Standards Committee has received responses from the Subject Member and the Investigating Officer, it will prepare a summary in advance of the hearing of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

The name of the Authority
The name of the Subject Member
The name of the complainant (unless there are good reasons to keep his/her identity confidential)
The Case reference number
The name of the Standards Committee Member who will chair the hearing
The name of the Investigating Officer
The name of the clerk of the hearing or other administrative officer
The date the pre-hearing summary was produced
The date, time and place of the hearing
A summary of the complaint
The relevant section or sections of the Council's Code of Conduct
The findings of fact in the investigation report which are agreed and the findings of fact in the investigation report which are not agreed
Whether the Subject Member or the Investigating Officer will attend or be represented
The names of any witnesses who will be asked to give evidence
An outline of the proposed procedure for the hearing