# Policy for investigating and ruling on alleged breaches of the Code of Conduct

## Principles

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- The complaints process will be independent, impartial, and respect members' privacy.
- Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- Members will have a right to seek independent advice, be represented, and, if they choose, be accompanied by a support person throughout the process.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution[i].

## Who can make a complaint?

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the Chief Executive, who can make a complaint on behalf of their staff. On receipt of a complaint, the Chief Executive must forward the complaint to an independent person, either an independent investigator or an initial assessor, for an assessment.

## Role of the initial assessor

On receipt of a complaint an initial assessor will undertake an assessment to determine the relative merit and seriousness of the complaint, and the nature of the subsequent process that will be followed. The complaint may be dismissed if the initial assessor finds it to be trivial, vexatious, frivolous or politically motivated.

If a complaint is not dismissed, the initial assessor may initiate one of the following:

### 1. Refer to the Mayor

In the case of a breach that is not serious or amendable to mediation, the initial assessor may refer the person responsible for the alleged breach to the Mayor for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the Mayor will be regarded as sufficient to resolve the complaint. Where a member is referred to the Mayor, the initial assessor may also recommend, for the Mayor's consideration:

- That the member attends a relevant training course.
- That the member work with a mentor for a period.
- That the member tenders an apology.

**2. Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the initial assessor may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority unless the complaint is referred to an independent investigator, usually due to a failure of the mediation**.**

**3. Refer to an independent investigator**

Where the initial assessor finds that the complaint is serious or no resolution can be reached and/or mediation is refused, the initial assessor will refer the complaint to an independent investigator. The independent investigator will be selected from the local authority's independent investigators' panel assembled by the Chief Executive, or an independent investigator service that is contracted to the Council. Complaints that involve the Mayor or Chief Executive will be referred directly to the independent investigator.

Complaints that are dismissed, referred to the Mayor, or resolved by mediation, will not be reported to the local authority.

## Role of the independent investigator

The independent investigator will:

- determine whether a breach has occurred,
- if so, determine the seriousness of the breach, and
- determine actions that a local authority should take in response to the breach.

Any recommended actions made in response to a complaint that has been upheld are to be considered but are not binding on the local authority.

**Determining the significance of an alleged breach**

The independent investigator may take whatever actions they need to determine the significance of a complaint, within the budgetary constraints set down, including re-assessing the complaint.
The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the Chief Executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the Council?
- What is the impact of the breach on other elected members, on officials and on the community in general?

**Independent investigator can make a binding rule**

On completing their investigation, an independent investigator may recommend that a complaint be dismissed or submit recommendations which the governing body will consider. The independent investigator's findings will be contained in a report to the Council's Chief Executive which will form the basis of a consequent report to the governing body to inform it of the decision and the actions that it may be required to take.

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

### Costs and support

The Council must ensure that members who make a complaint are not left to meet any costs created by doing so. Members, those who make complaints and those who are subject to a complaint, should be given appropriate and reasonable support.

The costs of assessment and investigatory services will be met by the Council.