

Carlton Parish Council Complaints Procedure

Arrangements for dealing with standards allegations under the Localism Act 2011 – without a Standards Committee

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Selby District Council [or of a parish or town council within its area] has failed to comply with that Council’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’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 Council [or of a parish or town council within the Council’s area], or of a Committee or Sub-Committee of the Council, has failed to comply with that 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, and whose views can be sought by the Council at any other stage, or by a member [or a member or co-opted member of a parish or town council] against whom an allegation as been made.

2 The Code of Conduct

Selby 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 Council’s website and on request at Access Selby in Selby Town Centre.

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

3 Making a complaint

If you wish to make a complaint, please write or email to –
The Monitoring Officer
Selby District Council
Civic Centre
Doncaster Road
Selby YO8 9FT

Or –

[Insert e-mailbox address here]

The Monitoring Officer is a 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 we have all the information which we need to be able to process your complaint, please complete and send us the standard complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, and is available on request from Access Selby. If you choose not to use the standard form please ensure that you provide us with all of the equivalent information, otherwise we may not be able to deal with your complaint.

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 Council 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 further formal action. This decision will normally be taken within 21 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she 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 Parish or Town Councillor, the Monitoring Officer may also inform the Parish or Town Council or your complaint and seek the views of the Parish or Town 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 further formal action. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the member or the Council 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 further formal action.

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

5 How is further formal action taken?

The Council has adopted the following procedure to deal with misconduct complaints.

If the Monitoring Officer decides that a complaint merits further formal action s/he will arrange a Hearing. The Monitoring Officer will make reasonable efforts to ensure that the date for the hearing is suitable to all parties but will not tolerate unreasonable delay.

The Hearing will be conducted by the Monitoring Officer.

The Complainant will be invited to set out their complaint and show why they think the action(s) complained of represent a breach of the Code of Conduct. The Complainant may call witnesses to support their arguments. The Subject Member will have an opportunity to respond to the Complaint and call witnesses to support their arguments. Both sides may question the evidence and the witnesses.

The Monitoring Officer will seek to establish the facts and may take reasonable steps to ensure that the evidence presented is relevant and pertinent to the matters under consideration.

The Monitoring Officer will then decide whether a breach has occurred and announce his findings. If the Monitoring Officer finds no breach of the Code of Conduct he will close the hearing and close the complaint.

If the Monitoring Officer finds a breach of the Code of Conduct he may, after consulting the Independent Person, seek a local resolution. S/he will consult with the Independent Person and with the 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 Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Council [and the Parish or Town Council] for information, but will take no further action. However, if the Complainant tells the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter to the Council with a recommendation on the appropriate sanction.

6 What action can the Monitoring Offer recommend the Council to take where a member has failed to comply with the Code of Conduct?

6.1 Publish the findings in respect of the member's conduct;

- 6.2 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;
- 6.3 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 6.4 Arrange training for the member;
- 6.5 Remove [or recommend to the Parish or Town Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the Council [or by the Parish or Town Council];
- 6.6 Withdraw [or recommend to the Parish or Town Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 6.7 Exclude [or recommend that the Parish or Town 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 Council has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

7 What happens at the Council Meeting?

At the Council Meeting the Monitoring Officer will state his decision as to whether the member failed to comply with the Code of Conduct and his recommendation to Council as to any actions which it ought to take. The Council will make the final decision on the matter.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice, and send a copy to you, to the member [and to the Parish or Town Council], and make that decision notice available for public inspection.

8 Who is the Monitoring Officer?

The Monitoring Officer is a senior officer of the Council who is appointed to act as Monitoring Officer in addition to his/her other duties. The Monitoring Officer has an independent statutory duty to report on any action or proposal by Selby District Council which would be unlawful, in breach of a statutory code or give rise to maladministration or injustice.

The Monitoring Officer at Selby District Council is also the Council's Deputy Chief Executive

In addition, the Monitoring Officer has responsibilities in connection with the Councillor Code of Conduct and enacting the arrangements (these arrangements) for dealing with allegations under the Localism Act 2011.

9 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.

A person cannot be “independent” if he/she –

- 9.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council;
- 9.2 [Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the Council’s area], or
- 9.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - 9.3.1 Spouse or civil partner;
 - 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 9.3.3 Grandparent of the other person;
 - 9.3.4 A lineal descendent of a grandparent of the other person;
 - 9.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 9.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 9.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

10 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer the discretion to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

11 Appeals

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

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

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Reviewed by Carlton Parish Council on 26 May 2015 (Minute Ref: 117)
Reviewed by Carlton Parish Council on 24 May 2016 (Minute Ref:182)

Signed: Clerk to Carlton Parish Council