



HOW WE INVESTIGATE AN ALLEGATION THAT A SURREY COUNTY COUNCIL MEMBER HAS BREACHED THE CODE OF CONDUCT

When an investigation takes place:

All complaints that a Member, or co-opted Member, of Surrey County Council has failed to comply with the Code of Conduct are referred to the General Purposes Sub-Committee. This is a sub-committee of the Council's Standards Committee, chaired by an Independent Representative. It carries out several functions in the process of dealing with complaints. These include making an initial assessment of the complaint, receiving the report of the Monitoring Officer after a complaint has been investigated and convening a hearing to decide whether a Member has failed to comply with the Code of Conduct and, if so, what sanction to impose.

An investigation takes place after the Sub-Committee has considered a complaint and decided to refer it to the Monitoring Officer for investigation. The Monitoring Officer is under a duty to investigate and report back to the Standards Committee. It is usual for the Monitoring Officer to delegate the investigation to an independent investigator to avoid a conflict of interests.

Output from the investigation

The investigator must reach one of the following conclusions and report back to the Standards Committee:

- there has been a failure by the Subject Member (the Member about whom the complaint has been made) to comply with the Code of Conduct; or
- there has not been a failure to comply.

Process

- The Monitoring Officer appoints an investigator and agrees with them the process for the investigation and draft timescales.
- The Monitoring Officer will write to the Subject Member and tell them who she has appointed as the investigator. The investigator will contact the Subject Member to explain the process for the investigation.

- The investigator will collect evidence to establish the facts. They need to include:
 - facts which show if the conduct happened as alleged
 - facts which show that the conduct constituted a breach of the Code
 - facts which might aggravate or mitigate the alleged breach, for example, provocation or an apology.
- The evidence may be contained in documents, photographs etc and may be provided by the complainant or gathered in interviews with relevant people carried out by the investigator.
- The investigator will normally interview the Subject Member after he or she has collected all other evidence. This will give the Subject Member an opportunity to respond to the evidence that has been gathered.
- After each interview, the investigator will produce a draft statement and seek comments on it from the interviewee before preparing a final version for him or her to sign.

Until the investigator produces his or her report any information collected is confidential and will not be disclosed to other people.

- At the end of the investigation a draft report of findings is produced. A copy will be sent to the complainant and Subject Member who can make written representations to the investigator.
- The investigator will then produce a final investigation report. A copy will be sent to the Subject Member. The Monitoring Officer will arrange to take the report to the Standards Committee.
- Before any final hearing is scheduled, the General Purposes Sub-Committee will receive the report. The Subject Member does not attend this meeting.
- If the investigator has found that there has been no breach of the Code the Sub-Committee must decide whether to accept that finding or refer the matter for a hearing. Where the investigator finds that a breach has occurred, the matter must be referred to a formal hearing.

If the investigator finds that the Subject Member has not breached the Code of Conduct and the Sub-Committee accepts the finding, the Subject Member will have a choice as to whether Standards Committee publishes a notice to that effect.

Hearings

The complaint will be referred to a hearing:

- when an investigator finds that there has been a failure to comply with the Code, or
- the Sub-Committee do not accept an investigator's finding of 'no failure'.

The referral will be either to a meeting of the General Purposes Sub-Committee, or to the Adjudication Panel of Standards for England. The complaint may only be referred to the Adjudication Panel if the Sub-Committee decides that the case is so serious that the sanctions available to it would not be sufficient, and if the president of the Adjudication Panel agrees to accept the referral.

Where the matter is referred for a local hearing, the Committee Manager will write to the Subject Member in advance, proposing a date for the hearing and offering guidance about the hearing.

Timescales

The Monitoring Officer recognises that this will be an anxious time for the Subject Member and will bring the matter back to a consideration sub-committee as soon as possible. Sub-Committees meet on a monthly basis to keep delays to a minimum. However, investigations can be prolonged by the lack of availability of both witnesses and the Subject Member, and the speed with which statements can be agreed.

Where the investigator makes a finding that there has been a breach of the Code of Conduct the final hearing must take place within three months or the final report.

Support for Subject Members

The Council does not provide external or internal legal advice or representation to Subject Members when a complaint is being dealt with through the Council's internal processes. The Monitoring Officer will upon request ask one of her senior lawyers to meet a Member at the outset of the investigation process to discuss any concerns they have and to provide any additional guidance on the process

Further information is available on the S-Net and the Standards Board Website www.standardsforengland.gov.uk