

Hinckley & Bosworth Borough Council Arrangements for dealing with complaints against councillors (Borough and Parish)

The Localism Act 2011 requires all local authorities to adopt their own Code of Conduct (“the Code”) for members (and for any co-opted members who have the right to vote in meetings). The Code has to be based on seven principles of public life namely: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

In addition the Code requires members to declare and publicly register certain financial interests that they may have. These are called Disclosable Pecuniary Interests. Failure to declare and register these particular interests is a criminal offence.

The Localism Act 2011 goes on to require local authorities to have arrangements in place to deal with formal complaints against members. Those arrangements have to include the appointment of an ‘Independent Person’ whose views must be sought by the authority before making a final decision on a complaint and can also be sought at any stage of dealing with a complaint. In addition, the member being complained about has a right to consult an Independent Person at any time in the process.

Making a Complaint

Members of the Hinckley & Bosworth Borough Council and parish councils within the borough pride themselves on their high standards of behaviour. There may however be occasions when you might consider that a member has breached the Code of Conduct. In these instances, you may complain to the Monitoring Officer who is a senior officer in the authority and has statutory responsibility for maintaining the register of members’ interests and for administering a system for considering complaints against members.

To ensure that all the necessary information is provided with a complaint a standard complaint form has been drawn up. You can access the complaints form [here](#).

Once completed the form should be sent either by e-mail or in the post to:

Julie Kenny
Monitoring Officer
Hinckley & Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
Leicestershire LE10 0FR

E mail: julie.kenny@hinckley-bosworth.gov.uk

It is important that you provide your contact details so that we can keep you informed of the progress of your complaint. The form includes a section for you to indicate if you don't want the member you're complaining about to know who the complainant is. However, there are only very specific situations where your details can be withheld.

Once received your complaint will be dealt with in accordance with the following process:

First steps

You will be sent an acknowledgement letter or e mail usually within five working days of receipt of your complaint.

The subject member and his/her political group leader (if applicable) will be notified of the complaint and provided with the details of the complaint.

Preliminary Assessment

The Monitoring Officer, in consultation with an Independent Person, will assess your complaint and decide whether it constitutes a breach of the Code of Conduct.

Complaints that are considered to be vexatious or politically motivated will not be accepted. If for these or other reasons the Monitoring Officer, in consultation with the Independent Person, does not feel that the complaint should be considered, you, the member being complained about and the group leader (if applicable) will be notified. If you are dissatisfied with this decision, you can request re-consideration by the Monitoring Officer.

If the complaint is deemed to relate to an alleged breach of the Code of Conduct the Monitoring Officer will decide whether or not that breach relates to the declaration or registration of a Disclosable Pecuniary Interest. (See below for information on complaints not deemed appropriate for consideration).

Alleged breaches of requirement in connection with Disclosable Pecuniary Interests

In these instances, the Monitoring Officer will consider whether the matter should be referred to Leicestershire Police for investigation. In making that decision the Monitoring Officer has to decide whether any alleged failure to declare or register an interest was intentional. The Monitoring Officer will need to be able to provide sufficient evidence to justify a Police investigation.

Other alleged breaches of the Code of Conduct.

For complaints that are **not** about Disclosable Pecuniary Interests, the Monitoring Officer, in consultation with the Independent Person, will decide whether the allegation warrants detailed consideration and, if so, whether that consideration needs to be by the Monitoring Officer or by a panel of elected members.

Complaints considered by the Monitoring Officer

These are complaints for which the Monitoring Officer in consultation with the Independent Person, feel that either no further action is required or that the appropriate remedy would be:

- a formal apology to you by the member concerned within 14 days of the request to do so;
- a requirement for the member to undertake specific training, or both.

You will be informed of the outcome of the complaint. Where members belong to a political group, the group leader will be notified of the outcome of the complaint and of any sanctions imposed.

Complaints considered by the Ethical Governance & Personnel Committee (EGPC)

Where the Monitoring Officer, in consultation with the Independent Person, thinks that it is not appropriate for her to deal with the complaint, or that more serious sanctions might be appropriate, the complaint will be referred to EGPC. Both you and the member being complained about will be invited to submit evidence for the EGPC to consider.

The EGPC will decide whether it believes a full investigation into the complaint is required or whether there is more appropriate action, such as an apology, training or indeed whether no further action should be taken. In all cases, the Monitoring Officer will be asked to advise you and the subject member of the decision.

If the EGPC requests a full investigation, this will be undertaken by the Monitoring Officer or a person appointed by them. If necessary, the EGPC can request additional information from other parties to help them consider the complaint. More serious cases might warrant the commissioning of an investigation report by either an officer not directly involved in work with the member concerned or by an independent adviser.

If the recommendation of the investigation is that there has not been a breach of the Code of Conduct and no further action be taken, the report will also be sent to the Independent Person and the Chair of the EGPC, who will be asked whether they agree with the recommendation. Where all parties agree, that will be the end of the matter and you, the member and the relevant town or parish clerk will be advised of the decision.

However, if an investigation finds a complaint is upheld and there has been a breach of the Code of Conduct then the EGPC will meet for a hearing and the subject member will be invited to attend.

Hearings by the Ethical Governance and Personnel Committee

Hearings are not a court. Evidence will not be taken on oath and persons attending the hearing will not be expected to stand. The committee is quasi-judicial and the principles of natural justice will be applied. All comments or questions must be put

through the Chair. The committee will reach its decisions on the balance of probabilities based on the evidence presented to it.

The subject member may be represented or accompanied during the meeting.

The EGPC Chair will:

- (i) introduce those present;
- (ii) establish that the hearing is quorate
- (iii) deal with any disclosures of interest;
- (iv) ensure that the participants understand the procedure to be followed;
- (v) ensure that the member, if unaccompanied, was made aware that he or she could have been represented.
- (vi) ensure that any issues of confidentiality are dealt with

If the subject member is not present, the committee will consider whether to hold the hearing in their absence or adjourn the hearing.

The investigator will act as a facilitator introducing any witnesses to give evidence. The subject member and/or his/her representative may ask questions of the investigating officer and any witnesses. The EGPC may ask questions of the investigating officer and any witnesses.

The subject member and/or his/her representative will put his/her case and may call witnesses. The EGPC may ask questions of the subject member and any witnesses.

The EGPC will withdraw to consider the case and come to a decision in private. The Monitoring Officer and the officer recording the proceedings will remain with the Committee. The Chair will announce the Ethical Governance and Personnel Committee's decision in respect to the material facts and whether they amounted to a breach of the Code of Conduct.

If a complaint is upheld:

The EGPC will decide if any of the following sanctions should be imposed:

- Formal apology
- Additional training
- Formal letter to the member concerned highlighting failings in their conduct
- Recommendation to Council / Parish Council on the removal of the member from membership of a specific committee, outside body or position of responsibility
- Recommendation to the political group leader (if applicable) on the removal of the member from a specific committee, outside body or position of responsibility

- Issue of a press release on the nature of the complaint and the committee's decision which will be published on the council's website
- A recommendation to Council that the member be censured.
- Limit the member's access to support services and officers (if a Borough member).

If the complaint is not upheld

No action will be taken against the councillor concerned.

You, the subject member, the group leader and town or parish clerk (if applicable) will be informed of the committee's decision.

Appeals

There is no right of appeal against the decision on whether to investigate a complaint or decisions made following investigation.

If you are unhappy about the way in which your complaint has been administered, a complaint can be lodged with the Local Government and Social Care Ombudsman who can be contacted as follows:

Website: <https://www.lgo.org.uk/make-a-complaint/how-to-complain>

Tel: 0300 061 0614

The subject member may also make a complaint to the Local Government and Social Care Ombudsman if they are unhappy with the way the complaint against them has been handled.