

MAKING A COMPLAINT ABOUT A COUNCILLOR

Introduction

1. This note lets you know how to make a complaint that a member of Harrow Council has breached the Council's code of conduct.
2. The Code of Conduct can be found in the Council's constitution at <http://www.harrow.gov.uk/www2/documents/s117835/Part%205A%20Code%20of%20Conduct%20for%20Councillors.pdf>

How to make a complaint

3. Complaints must be made in writing. You can use the online form or send your complaint by post or email to:

The Monitoring Officer
Civic Centre
PO Box 2
Station Road
Harrow
HA12UH

Email: standards.monitoringofficer@harrow.gov.uk

4. You should specify what particular provision of the code of conduct you believe have been breached and the details of what happened.
5. If you want to keep your name and address confidential, please indicate this. There is a space provided for this purpose on the complaint form. If you choose to remain confidential we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. However, please provide us with your name and contact details so we can acknowledge your complaint and keep you informed of progress.
6. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
7. 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.
8. 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.
9. If you are willing for your complaint to be dealt with by way of mediation then this option will be given to you if the Monitoring Officer feels that this is appropriate.

The Independent Person

10. This note refers to the Independent Person. This is someone appointed by, but independent of, the Council whose role is to carry out certain functions in relation to

complaints against members. The Council is required by law to have at least one Independent Person.

Stage 1 - filtering

11. The Monitoring Officer in consultation with the Independent Person is able to filter out complaints that:
 - do not fall within the code of conduct;
 - are considered to be frivolous or vexatious;
 - are about events which took place more than 6 months' prior to the receipt of the complaint by the Monitoring Officer, unless there are exceptional circumstances; and/or
 - do not merit further investigation on public interest grounds.
12. The public interest test referred to above involves taking into account factors including the seriousness of the complaint, the cost of investigating and hearing the complaint and the sanctions available.
13. The member complained about will be told about the complaint and asked for their comments in writing at this stage. The member also has a right to consult the Independent Person. You may also be asked for further information about your complaint.

Stage 2 – consideration by the Standards Working Group

14. If your complaint is not filtered out, it will be considered by the Standards Working Group (SWG). This is an advisory group each meeting of which will be made up of one member from each political party and an Independent Person who will chair the meeting. Its ~~whose~~ role is to make recommendations to the Monitoring Officer. Meetings held at this stage will always be held in private.
15. The SWG will consider the complaint and make one of the following recommendations to the Monitoring Officer:
 - that the matter should proceed no further either on the grounds that there is no breach of the Code or that it is not in the public interest to proceed; or
 - That the matter cannot be determined on the facts available and should be investigated and come back before the SWG for further consideration; or
 - That there is a breach of the Code of Conduct and that a sanction should or should not be applied. If it recommends that a sanction should be applied then it should specify the sanction (see paragraph 30 below).
16. The Monitoring Officer will consider the view of the SWG and will decide which of the options above should be followed. If he/she decides that an investigation should take place the matter will progress to stage 3.

Stage 3 - investigation

17. The Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator.

18. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.
19. The Investigating Officer would normally also write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents s/he needs to see and who s/he needs to interview.
20. 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 you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
21. Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

Stage 4 – consideration of investigation report

22. The Monitoring Officer will put forward the investigation report to the SWG for consideration. The Group will decide whether to recommend to the Monitoring Officer that a local hearing should be held to consider whether it appears that there has been a breach of the Code of Conduct. Alternatively, the SWG may recommend, on the basis that there is no evidence of a failure to comply with the Code of Conduct, that the Monitoring Officer write to you and the member concerned, notifying you that s/he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report.
23. The Monitoring Officer will consider the recommendation of the SWG and make a decision.

Stage 5 – Local Hearing by the Standards Working Group

24. At the start of the hearing, the SWG will decide whether or not the hearing should be heard in public. It will consider whether it is in the public interest to do so.
25. The Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Working Group. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Working Group as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
26. The Standards Working Group, with the benefit of any advice from the Independent Person, will reach a view on whether the member did or did not fail to comply with the Code of Conduct. The Chair will inform the member of this finding and the Standards Working Group will then consider what views and findings of fact and recommendations it should make to the Monitoring Officer. If action is recommended, any such recommendations should be in line with the actions available to the Monitoring Officer (see paragraph 30 below).

27. If the Monitoring Officer disagrees with the recommendations may refer the matter back to the Standards Working Group for further consideration, stating why he/she disagrees with their recommendations.
28. If, after further consideration by the Standards Working Group, the Monitoring Officer still disagrees with its recommendations he/she may make a decision or refer the matter to the Governance, Audit, Risk Management and Standards Committee (GARMSC) for decision.

Stage 6 – Referral to GARMSC

29. If the matter is referred to GARMSC for decision the matter will be considered on the basis of a report setting out the alternative positions of the Monitoring Officer and the Standards Working Group. No evidence will be heard.

What action can the Monitoring Officer or GARMSC take where a member has failed to comply with the Code of Conduct?

30. ~~On the basis of the findings and recommendations of the Standards Working Group~~ In the event of a finding that there is a breach of the Code the Monitoring Officer or GARMSC may:

- Report the decision to the Governance Audit Risk Management and Standards Committee (if the Monitoring Officer has made the decision) and then Council for information and place them on the Council's website;
- Inform the Group Leader (or in the case of an independent member, Council) of a recommendation that a member be removed from any or all Committees or Sub-Committees, or outside body appointments;
- Inform the Group Leader of any recommendations that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- Remove the member from outside body appointments;
- Arrange training for the member or, if the decision is made by GARMSC, instruct the Monitoring Officer to do so;
- Where the breach involves inappropriate use of facilities, withdraw such facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- Exclude the member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings; or
- Censure the member for the breach, in which case the Monitoring Officer will write, (following a request from GARMSC if it has made the decision), to the Member and a press report will be issued.

What happens after the Monitoring Officer or GARMSC have made their decision?

31. As soon as reasonably practicable, the Monitoring Officer shall prepare a formal decision notice and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council. This does not apply to decisions made by the Monitoring Officer to filter out a complaint.

Revision of these arrangements

32. The Council may by resolution agree to amend these arrangements

Appeals

33. There is no right of appeal to the Council in respect of any decision made under this process. A complaint may be made to the Local Government Ombudsman, subject to him/her accepting jurisdiction.

Publication of the outcome of complaints

34. The Council maintains information about the outcome of complaints on its website unless the matter is sensitive and the Monitoring Officer therefore believes it should not be made public. The information published in this way in respect of each complaint is:

- a. The member complained about;
- b. The complainant (unless they have asked for their details to remain confidential);
- c. The brief nature of the complaint;
- d. The stage which the complaint finally reached; and
- e. Any sanction applied.