

LONDON BOROUGH OF BRENT

PROCEDURE FOR LOCAL INVESTIGATIONS OF ALLEGATIONS OF MISCONDUCT
AGAINST MEMBERS OF THE COUNCIL1. **Introduction**

- 1.1 The Council will follow these procedures where any complaint about the conduct of a member who is required to comply with the Brent Members' Code of Conduct is referred to the Monitoring Officer for Investigation by either the Standards Committee or an Ethical Standards Officer. This can include independent or voting co-opted members.
- 1.2 This procedure has been prepared having had regard to the relevant guidance issued by the Standards Board for England.
- 1.3 For the purposes of this procedure;

Complaint means the allegation which is the subject of the referral.

Complainant means the person who made the complaint about the Member.

Ethical Standards Officer ("ESO") means an Ethical Standards Officer of the Standards Board for England.

Investigating Officer means either the Monitoring Officer, or the person appointed by the Monitoring Officer to investigate the Complaint.

Investigation means the investigation of the Complaint.

Member means the person about whom the complaint is made including independent and voting co-opted members.

Monitoring Officer means the officer holding the statutory role of the Council's Monitoring Officer.

Referral means a referral of the Complaint to the Monitoring Officer for investigation from either the Standards Committee or an ESO.

Standards Committee means the Standards Committee or any appropriate sub-committee of the Standards Committee

2. **Appointment of Investigating Officer**

- 2.1 Upon receipt of a Referral the Monitoring Officer will either elect to take on the role of Investigating Officer herself or may appoint another appropriate person from within the Council or from outside the Council as the Investigating Officer on terms to be set out in his or her terms of appointment.
- 2.2 The Monitoring Officer is usually the legal adviser to the Standards Committee. However, where the Monitoring Officer is the Investigating Officer then he or she must appoint another officer to act as the legal adviser to the Standards Committee who will provide substantive and procedural advice to the Committee.

3. **Notification of Referral for Investigation**

- 3.1 As soon as reasonably practical after the appointment of an Investigating Officer, the Monitoring Officer will notify the Member of the Referral and will provide:
- a summary of the allegation
 - the name of the Complainant
 - a copy of any report received from the ESO
 - a copy of the procedure to be followed during the investigation
 - the identity and contact details of the Investigating Officer
 - an indicative timetable for the Investigation; and
 - an explanation of what will happen next
- 3.2 At the same time, the Monitoring Officer will also notify the Complainant that the referral has been received by him or her and may provide
- the identity and contact details of the Investigating Officer
 - a copy of the procedure to be followed during the investigation.
 - an indicative timetable for the Investigation; and
 - an explanation of what will happen next
- 3.3 At the same time the Monitoring Officer will notify all members of the Standards Committee that a complaint has been referred to him or her for investigation and may provide:
- the name of the Member
 - the name of the Complainant
 - the identity of Investigating Officer
 - an indicative timetable for the Investigation; and
 - an explanation of what will happen next
- 3.4 If the Monitoring Officer considers that it would inappropriate to notify the Member, the Complainant or the members of the Standards Committee of any of the information listed above then she may withhold that information for so long as is necessary to enable the Investigation to proceed.

4. Purpose of the Investigation

- 4.1 The purpose of the investigation is to enable the Investigating Officer to prepare and present to the Standards Committee a report which, together with any report prepared by the Ethical Standards Officer, would provide the Standards Committee with sufficient information to determine whether the member has acted in breach of the Code of Conduct and, if so, whether any action should be taken in respect of the member or in consequence of the breach, and what any such action should be.

5. Conduct of the Investigation

- 5.1 The Investigating Officer must conduct the Investigation in accordance with the terms of his/her appointment and throughout the Investigation have regard to the purpose of the investigation as set out in paragraph 4.1 of this document, any guidance issued by the Standards Board for England and/or the Monitoring Officer and follow good practice for investigations.
- 5.2 The Investigating Officer should aim to complete the Investigation within 8 weeks of appointment.
- 5.3 The Investigating Officer will contact the Member and any potential witnesses directly and make the necessary arrangements for any interviews that he or she considers necessary as part of the Investigation.
- 5.4 The member or any other person who is interviewed by the Investigating Officer may be represented or accompanied by another person during any interview. The member or other person being interviewed is responsible for meeting their own costs of any representation at an interview.
- 5.5 The Investigating Officer may conclude the Investigation at any point where he or she is satisfied that he or she has sufficient information to enable them to report to the Standards Committee and enable the Standards Committee to come to a considered decision on the complaint.

6. Confidentiality of Information

- 6.1 The Investigating Officer shall treat information obtained during the course of the Investigation as confidential to be disclosed only as required for the purposes of the Investigation and where appropriate to the Standards Committee in a report or during a hearing, or where otherwise required by law to disclose the information.
- 6.2 The Investigating Officer shall request anyone interviewed as part of the investigation to maintain the confidentiality of any information they receive as part of the investigation.
- 6.3 Accordingly, the obligation on members in Paragraph 4 of the Code of Conduct not to disclose information received by them in confidence will apply to any information received by a member during the course of an interview.

7. New Matters Arising During the Investigation

- 7.1 If, during the course of the Investigation, new breaches of the Code of Conduct are discovered, the Investigating Officer should not investigate these further and must report the allegations to the Monitoring Officer as soon as practicable together with any supporting information they have. The Monitoring Officer will consider whether to refer the new allegations to the Standards Committee or Ethical Standards Officer.
- 7.2 If, during the course of investigating a referral from the Standards Committee, information is discovered that in the Investigating Officer's opinion would mean that the allegation is either materially more serious or materially less serious than originally seemed apparent, the Investigating Officer must report that information to the Monitoring Officer who may then refer the allegation back to the Standards Committee for further consideration.

8. Non Co-operation

- 8.1 If, during the course of investigating a referral from an Ethical Standards Officer, the member is obstructive or refuses to co-operate with the Investigation then the Monitoring Officer may refer the matter back to the Ethical Standards Officer or may continue with the Investigation in the absence of the Members co-operation.
- 8.2 If during the course of the Investigation the member resigns, becomes terminally ill or dies the Investigating Officer should cease the Investigation and refer the matter back to the Monitoring Officer who may refer the complaint back to the Standards Committee.

9. Clarification

- 9.1 The Investigating Officer may, at any time seek clarification from the Complainant, the Member or any other person in respect of draft findings or conclusions prior to issuing a report.

10. Reporting

- 10.1 At the end of the Investigation the Investigating Officer will produce a report to be submitted to the Standards Committee.
- 10.2 The report will state that it represents the Investigating Officers findings and enable the Standards Committee to determine whether the Member has acted in breach of the Code of Conduct and, if so, whether any action should be taken in respect of the member or in consequence of the breach and what any action should be.
- 10.3 The report must include a finding that either he or she considers there has been a failure to comply with the Code of Conduct or that there has not been a failure to comply with the Code of Conduct
- 10.4 The report should also include;
- a summary of the allegations
 - the relevant sections of the Code(s) of Conduct in force at the time of the alleged breaches

- the evidence obtained during the Investigation
- the findings of fact
- a recommendation as to whether any action should be taken in respect of the Member or any other action and if so what that action should be
- a schedule of background documents; and
- a recommendation as to whether in the Investigating Officers opinion of the information collected as part of the Investigation contains confidential or exempt information under section 12A of the Local Government Act 1972.

10.5 The report should be sent to

- the Member who is the subject of the allegation
- the Complainant
- Members of the Standards Committee
- the Monitoring Officer; and
- the ESO, where the referral was made by an ESO.

11. Receipt of the Report by the Standards Committee

11.1 If the Investigating Officer finds that there has not been a breach of the Code of Conduct then the Standards Committee shall meet to consider the report.

- a) If the Standards Committee agrees with the findings of the Investigating Officer then with the Members consent a notice shall be published in a local newspaper and on the Council's website setting out the Standards Committee's finding and the reasons for it; or
- b) If the Standards Committee disagrees with the findings of the Investigating Officer then the Standards Committee will hold a hearing to determine the complaint as set out in the Council's procedure note "Local Determinations of Allegations of Misconduct Against Members of the Council".

11.2 If the Investigating Officer finds that there has been a breach of the Code of Conduct then a meeting of the Standards Committee will be convened in order to hear the allegation in accordance with the Council's procedures for "Local Determinations of Allegations of Misconduct Against Members of the Council".

11.3 A hearing will not take place earlier than 14 days (unless with the approval of the Member) or later than three months from the date of receipt of the Investigating Officer's report.

14 March 2008