

CITY OF DURHAM

**STANDARDS COMMITTEE
26 June 2008**

REPORT OF MONITORING OFFICER

1. Complaints to the Standards Board for England

(i) SBE 21948.08 – SBE 21953.08

The Standards Board for England have confirmed that they received a complaint in respect of the conduct of five parish councillors. The basis of the complaint was that the Members have participated in a decision by the Parish Council to donate money to a community association when they sit on the management committee of the community association.

The Standards Board for England have advised that this matter has been referred to an Ethical Standards Officer. Members will be updated on the progress of this matter in due course.

Recommended: That the report be noted.

(ii) SBE 21976.08

The Standards Board for England received a complaint from Mrs Briggs, Clerk to West Rainton and Leamside Parish Council, concerning the alleged conduct of Councillor Colin Clark of the same authority. The Standards Board for England assessed the allegation and decided not to refer the complaint for investigation as it believed the Standards Committee had already taken a view on the veracity of the evidence given by Councillor Clark and it was not therefore appropriate for the Standards Board to reconsider an aspect of a matter that had already been concluded.

Recommended: That the report be noted.

2. Complaints to the Standards Committee

(i) SC0001.08

The Monitoring Officer has received a complaint in respect of the conduct of a parish councillor. The basis of the complaint was that the Member has ignored correspondence, admitted acting to confer a detriment upon the complainant and as a consequence brought the authority into disrepute.

The Monitoring Officer has convened a meeting of the Standards Committee Local Assessment sub-committee in accordance with the Local Assessment Procedure. Members will be updated on the progress of this matter in due course.

Recommended: That the report be noted.

3. Complaint Form

Following comments passed to the Monitoring Officer in respect of the complaint form considered at the last meeting, a copy of the updated form is attached, which reflects the comments made. A copy of the proposed guidance to be adopted is also attached for Members' information.



COMPLAINT FORM (Code of Conduct)

This form is for use by anyone wishing to make a complaint about the way that a councillor or someone co-opted onto a council has behaved (whether this is City of Durham District Council or a Parish Council within the City of Durham District).

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the councillor(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other - please specify _____

3. The following information is requested for monitoring purposes only and is not compulsory.

Gender: Male Female

Marital Status: Single Married Other

Ethnic Origin:

White British <input type="checkbox"/>	White Irish <input type="checkbox"/>
White & Asian <input type="checkbox"/>	White & Black Caribbean <input type="checkbox"/>
Mixed <input type="checkbox"/>	White & Black African <input type="checkbox"/>
Indian <input type="checkbox"/>	Pakistani <input type="checkbox"/>
Bangladeshi <input type="checkbox"/>	Other Asian <input type="checkbox"/>
Black <input type="checkbox"/>	Caribbean African <input type="checkbox"/>
Chinese <input type="checkbox"/>	Other <input type="checkbox"/>

Disabled: Yes No

Making your complaint

4. Please provide us with the name of the councillor(s) you believe have breached the Code of Conduct and the name of their authority:

First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the assessment sub-committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, we believe councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason for asking us to do so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The assessment sub-committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible by contacting the Legal and Complaints Officer:-

Kay Laidlaw
17 Claypath
Durham
DH1 1RH

Tel: 0191 3018876

Fax: 0191 3018822

Email: klaidlaw@durhamcity.gov.uk

7. Please let us know if there is anything else you would like to mention at this point in relation to your complaint.

8. Please sign and date the form below

Signed _____ Date _____

Please now return the form to the Head of Legal & Strategic Services, as Monitoring Officer, who will pass your complaint on to the Standards Committee for consideration

**Head of Legal & Strategic Services
City of Durham Council
17 Claypath
Durham
DH1 1RH**

Tel: 0191 3018878

Fax: 0191 3018822

Email: cgreenlay@durhamcity.gov.uk

Guidance- How to make a complaint?

This leaflet tells you how to make a complaint if you are unhappy about the way that a Councillor or Member of this Authority has behaved. It also explains:

- How to make a complaint
- Who you can complain about
- What you can complain about
- What will happen to your complaint

If you have any questions or difficulties or are in need of any support in reading or understanding this leaflet, for example- if English is not your first language or you have a disability, please contact the Legal & Complaints Officer on 0191 3018876.

Alternatively, you can e-mail queries to klaidlaw@durhamcity.gov.uk

HOW TO MAKE A COMPLAINT?

- You need to send your complaint in writing by completing a complaints form and sending it to the address at the end of this leaflet.
- This leaflet helps you make sure you are sending us all the information we need. You can either use the form or write a letter that covers all the points in the form. Please send any documents that support your complaint with your form or letter.
- If you cannot write your complaint in English, we can arrange to have it translated for you.
- If you have any questions or difficulties about the form, please contact the Monitoring Officer by e-mail at cgreenlay@durhamcity.gov.uk

SECTION 1-YOUR CONTACT DETAILS

- Please provide your full name, address, contact telephone number and e-mail. Please also specify the type of complainant e.g. an Officer of the Council, Member of the public etc.
- An officer from the Council may need to contact you personally to go through the details of your complaint.

SECTION 2- WHO YOU CAN COMPLAIN ABOUT?

- You can complain about Councillors or Co-opted/Independent Members of this Council. A full list of current Members is available on the Council's web page at www.durhamcity.gov.uk
- Please note, we can only consider complaints about individual Councillors or Co-opted/Independent Members. We cannot consider complaints about the Council as a whole or about any people employed by it. A complaint about a service is dealt with under a separate procedure (see the corporate complaints page on the Council's website at www.durhamcity.gov.uk)
- The Monitoring Officer will determine whether the complaint should be directed to the Standards Sub-Committee for the initial assessment or whether another course of action is appropriate. If the complaint is clearly not about a Member's conduct then the Monitoring Officer does not have to pass it to the Standards Sub-Committee for assessment.

SECTION 3- WHAT YOU CAN COMPLAIN ABOUT?

You can complain about a Member breaking any part of the Council's Code of Conduct for Members. This Code is based on the Model Code of Conduct written by Parliament. A copy of the Code can be found in Part 9 of the

Council's Constitution which is available on the Council's website. Alternatively, hard copies of the Council's Constitution can be found at any library throughout the Borough.

A complaint can be made if you believe a Councillor or Co-opted/Independent Member has breached any part of the Code that includes:

- unlawfully discriminating against someone
- failing to treat people with respect
- bullying any person
- intimidating any person involved in any investigation or proceedings about someone's misconduct
- doing something to prevent those who work for the authority from being unbiased
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or authority, where the conduct is linked to their public role and not in their private capacity
- using their position improperly, to their own or someone else's advantage or disadvantage
- misusing their authority's resources
- allowing their authority's resources to be misused for the activities of a registered political party
- failing to register financial or other interests
- failing to reveal a personal interest at a meeting
- taking part in the discussion or making a decision where they have an interest that is so significant that it is likely to affect their judgment (known as a 'prejudicial interest')
- improperly influencing a decision about a matter that they have a prejudicial interest in
- failing to register any gifts or hospitality (including its source), that they have received in their role as a Member worth over £25

If none of the above applies to your complaint it is probably not something we can deal with. To find out if another organisation can help you, you should contact the local Citizens Advice Bureau (CAB). Details can be found on their web page at www.durhamcity.gov.uk

WHAT WE CANNOT INVESTIGATE

An Act of Parliament has set out the types of behaviour that we can investigate. There are some complaints we cannot investigate, including:

- Complaints where a Councillor is not named
- Complaints that are not in writing
- Incidents or actions that are not covered by the Code of Conduct
- Incidents that are about a fault in the way the Council has or has not done something. This is known as maladministration and may be a matter for the Local Government Ombudsman
- Complaints about people employed by local authorities
- Incidents that happened before a Councillor was elected

- Incidents that happened before the Council adopted its local Code of Conduct or before 26 February 2002, whichever is the earlier
- Complaints about the way in which the Council conducts and records its meetings

EVIDENCE

If you believe a Member has breached the Code of Conduct for Members as described above, it would be useful to attach any evidence that you feel is relevant to your complaint. For example, details of any witnesses or details of any dates/times of any incidents etc. You can send accompanying documents if you wish.

SECTION 4- CONFIDENTIAL INFORMATION

Before you send us your complaint, you should be aware that we are unlikely to be able to keep your identity confidential from the person that you are complaining about or any persons that are involved in the process of dealing with complaints, or third parties such as the Standards Board for England who are responsible for monitoring the standards committee functions.

We believe in the interests of fairness and natural justice, Members complained of have a right to know who has made the complaint and be provided with a summary of the complaint. For this reason, we are unlikely to withhold your identity or the details of the complaint unless there is very good reason. For example, where the disclosure of personal details may result in the evidence or witnesses being compromised by the subject Member.

If you believe your details should be withheld please specify the reasons for this on the form.

Requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The assessment of your request will be undertaken by the Standards Committee who will carry out the initial assessment of your complaint. We will then contact you again with the decision. If your request is not granted, we will allow you the option of withdrawing your complaint.

It is important that you understand that in certain exceptional circumstances where the matter complained of is very serious we can proceed with an investigation or other action and in the process disclose your name even if you have asked us not to. The following considerations will be taken into account when determining whether to proceed or not:

- Where the public interest in taking some action on the complaint outweighs the complainant's wish to withhold information or request to withdraw the complaint
- The complaint is such that the action can be taken on it without the complainant's participation

- There is an underlying reason for the request to withdraw the complaint, for example, the information suggests that the complainant may be under pressure from the subject Member or associates, to withdraw the complaint.

If you are concerned about details of your complaint being given to the Member the subject of your complaint you can e-mail the Monitoring Officer at cgreenlay@durhamcity.gov.uk

5. WHAT HAPPENS TO YOUR COMPLAINT?

The Local Government & Public Involvement in Health Act 2007 received royal assent on the 30 October 2007, the effect of which firmly shifted the responsibility of dealing with complaints against Members and alleged breach of the Code of Conduct from the Standards Board of England to the local Standards Committee. The Standards Committee (England) Regulations 2008 sets out the details for the local regime, which came into force on the 8 May 2008.

Initial Assessment

When we receive your complaint, we will write to you to let you know that we have received it. The Standards sub-committee will make an initial assessment of your complaint within an average of **20 working days**. It may be that they will decide that your complaint will not be investigated for one or more reasons. These reasons could include those listed under Section 3. The Standards Committee may alternatively refer the complaint to the Monitoring Officer for investigation or take other action. The Standards Committee may alternatively refer the matter to the Standards Board for England.

The Standards Committee may also take the following assessment criteria into account when considering whether complaints should be referred for investigation or take other action:

- (a). The matter may be referred for investigation if they believe it meets one of the following criteria:
- it is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England
 - it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it, short of investigation (in considering this, we will take into account the time that has passed since the alleged conduct occurred)
 - it is an anonymous complaint but includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

(b). However, it may not be referred for investigation if it falls into any of the following categories:

- it is believed to be malicious, relatively minor, politically motivated or tit-for-tat
- the same, or substantially similar, complaint has already been the subject of an investigation or inquiry by this Authority or other regulatory authorities and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel
- the complaint concerns acts carried out in the Councilor's private life, when they are not carrying out the work of the authority or have not misused their position as a Member
- the complaint is about something that happened so long ago that there would be little benefit in taking action now
- it appears that the complaint is really about dissatisfaction with a council decision
- there is not enough information currently available to justify a decision to refer the matter for investigation
- except in the most serious of cases, conduct that would not be considered to be a breach of the revised Code of Conduct, which authorities were able to adopt from May 2007 and became mandatory in October 2007

Review

If the Standards sub-committee decide that your complaint should not be referred for investigation, we will write to you explaining the reasons why.

If you are unhappy with the outcome you may seek a review of this decision by making a further request in writing with reasons, **within 30 working days** after the initial assessment decision is received. A differently constituted Standards sub-committee will make a decision in relation to the review within three months.

If following the review the decision not to investigate is upheld we will write to you with the decision. There is no right of appeal. However, you can refer the matter to the Local Government Ombudsman, details are set out below.

The Local Government Ombudsman
PO Box 4471
Coventry
CV4 0EH

Tel: 0204 76821960 or 0845 602 1983

www.lgo.org.uk

Investigation/ Determination Hearing

If your complaint is referred to the Monitoring Officer for investigation, we will write to you and inform you of the timescales for completing the investigation, and details of any hearings (if appropriate). You will also have an opportunity to provide the investigator with any further information or documents that you consider relevant. We will of course write to you to tell you the outcome of the hearing.

Remember, a summary of the complaint and your details will be shared with the subject Member and all parties involved in the case. See section 4 above for more details.

6. AT THE END OF AN INVESTIGATION

Following a hearing, a Standards Committee will make one of the following findings about the Member subject to the complaint:

- The Member had not failed to comply with the Code of Conduct
- The Member had failed to comply with the Code of Conduct but that no action needs to be taken.
- The Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

If the Member is no longer a Member of the Authority the Standards Committee can only censure that person. Otherwise, it can impose any one or a combination of the following sanctions:

- Censure
- Restriction for up to a maximum of 6 months of that Member's access to the premises and/or resources of the authority. This is provided that any such restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the Member's ability to perform their functions as a Member
- Partial suspension of that Member for up to a maximum of 6 months
- Suspension of that Member for up to a maximum of 6 months
- A requirement that the Member submit a written apology in a form specified by the Standards Committee
- A requirement that the Member undertake conciliation as specified by the Standards Committee
- Partial suspension of the Member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee
- Partial suspension of the Member for up to a maximum of 6 months or until such time as the Member undertakes any training or conciliation specified by the Standards Committee
- Suspension of the Member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee

- Suspension of the Member for up to a maximum of 6 months or until such time as that Member undertakes such training or conciliation as the Standards Committee specifies.

The Standards Committee can decide that any sanction will start on any specified date up to 6 months after the imposition of that sanction.

POINTS TO REMEMBER:

- We can only consider complaints that are about individual Councillors or Co-opted/Independent Members of this Council
- We can only investigate matters where you believe a Councillor Co-opted/Independent Member has breached the Code of Conduct for Members
- Your complaint must be in writing and cover all the points set out in the complaints form
- Your details and details of the complaint are unlikely to remain confidential as we need to share it with all parties involved in the process including the subject Member
- Do send us as much information as you can in order for us to decide whether or not the matter should be investigated

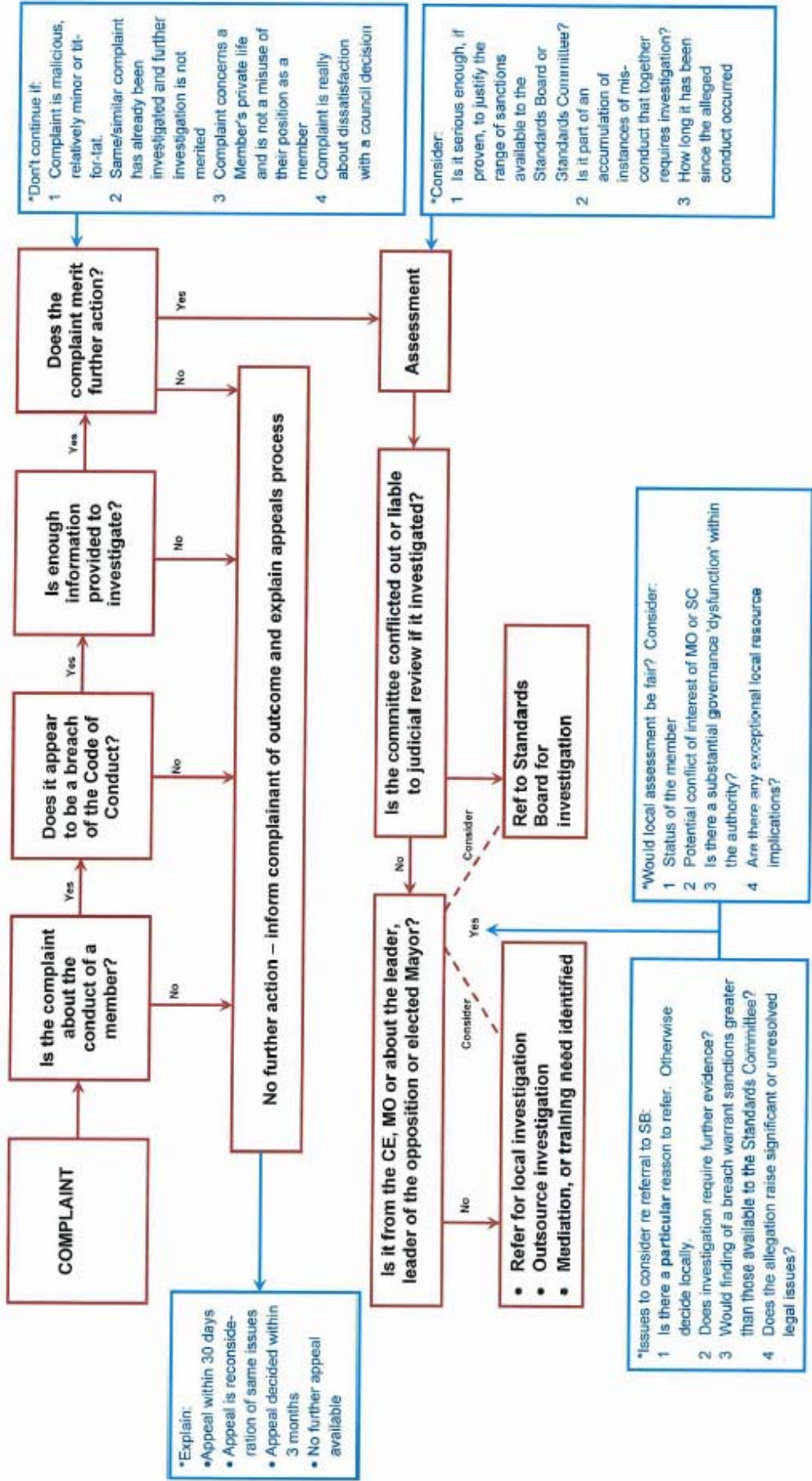
We hope that the information in this leaflet has answered your questions about making a complaint.

If you have any more questions, you can contact:

The Monitoring Officer
Durham City Council
17 Claypath
Durham
DH1 1RH

E-mail: cgreenlay@durhamcity.gov.uk

Local Filter Pilot Complaint Handling Chart



*Additions derived from Standards Board Policy Advisor guidance, based on the current Standards Board assessment criteria.