

Appendix 3

Draft **Hastings Borough Council** **Code of Conduct Investigations Procedure**

Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a member should be investigated.

It should be read in conjunction with the document “Arrangements for dealing with standards allegations under the Localism Act 2011”

The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Notification requirements

Once they have appointed an Investigating Officer, the Monitoring Officer will notify the Subject Member against whom the allegation has been made that the matter is being referred for investigation and inform them who is conducting the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how they conduct the investigation.

They may require the Subject Member and the complainant to provide them with information and /or documents which are relevant to the investigation. They may

require them to provide details of other people who may be able to assist with the investigation.

It may assist the Investigating Officer to set out a plan for how they are going to conduct the investigation and they may consult the Monitoring Officer at any stage of the investigation.

The Investigating Officer may request any person to attend an interview with them and/ or provide them with documents and / or information.

Any person who is interviewed may arrange to have a friend or solicitor with them (provided they are not connected to any matter under investigation).

The Investigating Officer will take a note of any interviews that they conduct.

The Monitoring Officer may agree that the authority will pay such expenses, fees or allowances to any persons providing documents, information, advice or explanation, as they consider appropriate.

Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the Member is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation maintain confidentiality in order to maintain the integrity of the process.

Draft Report

When the Investigating Officer is satisfied that he/she has sufficient information, or has obtained as much information as is reasonably practicable to obtain, he/she shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the code.

The draft report should be sent to the Monitoring Officer, the complainant and the Subject Member for their comments. The Investigating Officer may wish to

conduct further investigations once he/she has received those comments, before producing their final report.

Final Report

The final report should include the same sections as the draft report and a final conclusion as to whether there has been a breach of the code.

It may be helpful to include a chronology, summary of disputed facts and /or to append witness statements or other documents.

Action on receipt of Report

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and, if satisfied that the report is sufficient will write to the complainant and the Subject Member notifying them that no further action is required and enclosing a copy of the report.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he /she may ask the Investigating Officer to reconsider his / her report.

If the report concludes that there is evidence of a failure to comply with the Code of Conduct they will either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

The Hearings process is the subject of a separate procedure