

A GUIDE ON HOW TO COMPLAIN TO THE STANDARDS COMMITTEE

For use in connection with complaints that a Member of the Harrogate Borough Council or a Member of a Parish Council within the Harrogate District has not complied with the Members' Code of Conduct

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COMPLAINING TO THE STANDARDS COMMITTEE

Introduction:

The Standards Committee is the Committee established by the Council to consider complaints that a member of the Borough Council, or a member of one of the parish councils in the Borough Council's district has broken the rules in the Members' Code of Conduct. A list of the relevant city, town and parish councils is attached.

The Committee includes borough councillors, parish councillors and members of the public who do not belong to either the Borough Council or the parish councils, but have been appointed to ensure that the Committee's proceedings are fair. These are known as appointed independent members.

The Committee cannot consider all complaints, but only those which are covered by the Members' Code of Conduct. Other complaints, for instance those relating to the Council's officers or their administration will be dealt with under a separate procedure. This document sets out the Council's rules for dealing with a complaint to which the Members' Code of Conduct applies. You will find a copy of the official complaint form at the end of this document. The Council also publishes separate information about the procedure that applies at a full hearing in front of one of the Committee's panels.

Submitting a complaint and notification to the councillor:

There is a standard form for submitting a complaint which you should use unless you are disabled so that you need an alternative method of complaining. In that case, you should contact Andy West on 01423 556002 or Lesley Worrall on 01423 556005.

The complaint form goes to the Council's monitoring officer. When he has got it he will acknowledge it within 5 working days and he will send you a copy of this document. He may also ask you to clarify what you are complaining about. Once he is satisfied that he understands the general nature of the complaint, he will tell the councillor that a complaint has been made, and give him or her an outline of its general nature. If he thinks there is a serious risk that telling the councillor would be contrary to the public interest, or would prejudice an investigation, he will consult the Chair of the Standards Committee. Together they may decide not to notify the councillor before the hearing. The monitoring officer will not carry out interviews or investigations at this stage. He will make sure he understands the general nature of the complaint, and that it is covered by the Members Code of Conduct.

Anonymous complaints will only be referred if they include documentary or photographic evidence indicating an exceptionally serious breach of the Code has taken place.

If you request that your identity should be withheld from the councillor, that request will be considered together with the complaint by the initial assessment panel. Such requests will only be granted in exceptional circumstances which may include the following:-

- You have reasonable grounds for believing that you will be at risk of physical harm if your identity is disclosed.
- You are a council employee who works closely with the councillor and you are afraid of consequences to your employment if your identity is disclosed.

The Panels:

There are four types of panel which consider complaints under the Members' Code. These are; initial assessment, review, acceptance and full hearing. The initial assessment panel considers whether the complaint should be investigated. If they decide that it should not, you have a right of appeal to a review panel. If the complaint is investigated and the investigation finds that there was no breach, the investigator's report is considered by an acceptance panel. If the investigator's report concludes that there was a breach, the report is considered at a full hearing panel.

Each panel is selected from the members of the Standards Committee, by the member services manager in consultation with the monitoring officer and the Chair of the Standards Committee, who is an independent appointed member. The selection will be made on the basis of availability within the relevant time limits and compliance with the law.

Initial Assessment:

If the monitoring officer is satisfied that your complaint is covered by the Code he will refer it to a panel of the Standards Committee called the initial assessment panel. This decides whether to send your complaint for investigation. Wherever possible, the panel will meet within 20 working days of the date on which the monitoring officer is satisfied that he has sufficient information for the initial assessment to take place. The panel will not make any decision about what happened; it is only concerned with whether the complaint should be investigated.

The panel will have your complaint together with any documents submitted by you in support.

An initial assessment panel will decide to deal with the complaint in one of three ways:-

- a) They may refer it to the monitoring officer for local investigation or other action.
- b) They may refer it to the Standards Board.
- c) They may decide that no action should be taken on the complaint.

A complaint may be referred to the monitoring officer for other action where the panel believes that an investigation may not be the best option in the interests of good governance. Examples of other action include:-

Arranging for the councillor to attend a training course; arranging for you and the councillor to engage in conciliation; or instituting changes to the procedures of the authority if they have given rise to the complaint.

Complaints that have been referred to the monitoring officer for other action will not be referred back to the Standards Committee afterwards.

The panel may only refer the complaint to the Standards Board if they believe that it falls within the guidelines issued by the Standards Board for referral to them. For example a complaint might be considered for referral to the Standards Board if the panel believe that the status of the councillor, or the number of councillors involved, would make it difficult for the Standards Committee to deal with the complaint.

In most cases, within 5 working days of the panel's decision, the monitoring officer will send to you, the councillor, and where relevant the clerk of the town or parish council a summary of the panel's decision, recording the main points considered, the panel's conclusion, and the reasons for that conclusion. Where the matter is referred for investigation the monitoring officer will advise you as soon as possible who is responsible for the conduct of the investigation.

The meeting of the initial assessment panel will not be open to the public. The agenda and committee papers will not be open to public inspection and there will be no minutes. In most cases, the summary will be made available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the meeting.

The summary will usually name the councillor. The name of the councillor may be withheld where the panel decides that disclosing it would not be in the public interest or would prejudice subsequent investigation. Where the name of the councillor is withheld, the councillor will not be given a copy of the summary, and in those circumstances the summary will not be available for inspection by the public or be sent to the clerk of the relevant town or parish council.

Review of Initial Assessment:

Where the panel decides to take no further action on the complaint, within 5 working days of that decision the monitoring officer will write to you, the councillor and if relevant, the clerk to the town or parish council setting out the decision and the

reasons for it. You will be advised that you have a right to ask for a review of the decision. You will be told that you can exercise this right by writing to the Standards Committee with your reasons for requesting a review. You will be told the date by which the review should be requested. This date will be no less than 30 days from the date of notification.

If a request for review is received within the due date the monitoring officer will notify the councillor and if relevant the clerk to the town or parish council that a request has been received.

The monitoring officer will call a hearing of a panel to review the initial assessment ("a review panel"). In order to ensure that the review is fair and independent, no member of the initial assessment panel will take part in a panel reviewing that earlier decision.

The review panel will consider the complaint again together with any additional information submitted. Where the review panel decides to take no further action on the complaint, within 5 working days of that decision, the monitoring officer will write to you, the councillor and if relevant the clerk to the town or parish council setting out the decision and the reasons for it.

Local Investigation:

Where the complaint has been referred to the monitoring officer for investigation the monitoring officer will appoint an investigator to prepare a report on the complaint. The investigator can require advice and assistance from any member or officer of the council or parish council, and can require reasonable access to any documents in the possession of the local authorities concerned, if the monitoring officer believes that access is necessary for the purpose of the investigation.

You, the councillor and any person approached by the investigator for information will be asked to maintain confidentiality until the Standards Committee has determined the complaint. If a member fails to comply with this request, they may be in breach of of the Code.

At the discretion of the investigator, prior to completing the report, a draft may be sent to you, the councillor, or to persons who have provided statements referred to in the report. Any responses to the draft received within the stated period will be reported to the panel when the report is finalised.

The investigator will date the completed report and the monitoring officer will send copies to you, the councillor, and where relevant the clerk of the town or parish council. Where the monitoring officer considers that the report is likely to be heard in exempt session, the report will not be sent to the clerk of the town or parish council.

Acceptance Panel:

Where the investigator concludes that there has been no breach of the Code the monitoring officer shall, within 3 months of the date of the report, call a hearing of a panel to consider that conclusion (an acceptance panel). The purpose of the hearing will be to decide whether to accept the investigator's conclusion, to send the report to a full hearing, or to refer the matter to the Adjudication Panel of the Standards Board.

Where the panel concludes that there has been no breach of the Code, the panel shall as soon as possible given written notice of the finding to:-

- (i) you;
- (ii) the councillor;
- (iii) the clerk to any town or parish council concerned;
- (iv) the standards committee of any other authority concerned;
- (v) any ethical standards officer concerned;

The panel shall also arrange for a notice to be published within one month of the hearing, stating that the panel has found that there has been no failure on the part of the councillor, unless the councillor requests that the notice is not published. The notice must be published in at least one newspaper circulating in the district.

Pre-hearing Process:

If the investigating officer has concluded that there was a breach of the Code, or if the acceptance panel concludes that the matter should go to a full hearing, the monitoring officer has to fix a date. As soon as possible and at least 7 days before the date of the hearing, the monitoring officer will send to you, the councillor and the members of the panel notification of the following:-

- Confirmation of the date, time and place of the hearing;
- The findings of the report which are not agreed by the councillor;
- The procedure to be followed at the hearing, including the witnesses to give evidence.

Full Hearing:

Wherever possible a full hearing is open to the public. At the beginning of the meeting the panel will consider whether there is any good reason for excluding the public from the hearing. If they decide there is not, then you and other members of the public may attend. If you are to give evidence at the hearing, you will not be able to sit in the hearing until after you have given evidence. The panel will consider the evidence in private; at that point the public will be asked to leave the chamber.

So far as possible the hearing will consider only evidence submitted in writing before the hearing, together with the answers to any questions asked at the hearing. Any additional evidence must relate to the complaint which has been investigated and those findings of the investigators report which are in dispute. People who have given statements to the investigator which appear in the investigator's report will not usually be asked to attend.

The councillor may make representations to the hearing, either in writing or in person. The councillor may be represented by a solicitor or a barrister or with the prior consent of the panel, any other representative.

If the councillor fails to attend the hearing on the notified date the panel may either determine the matter in the councillor's absence, or, if they are satisfied that there is sufficient reason for the failure, they may adjourn the hearing to another date.

Unless otherwise directed by the Chair the hearing will follow the procedure set out in "Procedure at the Hearing".

The panel may at any stage before the hearing is concluded, adjourn and require the monitoring officer to seek further information or undertake further investigation on any point specified by the panel, but they may not adjourn the hearing more than once for this purpose.

At the conclusion of the hearing the panel will make one of the following findings;_

- (a) that the councillor has not failed to comply with the Code;
- (b) that the councillor has failed to comply with the Code but that no action needs to be taken;
- (c) that the councillor has failed to comply with the Code and that a sanction should be imposed.

The panel must also consider whether they wish to make recommendations to the Council with a view to promoting high standards of conduct among members.

As soon as reasonably practicable after the conclusion of the meeting the panel shall give written notice of the finding and the reasons for it to:-

- (a) you;
- (b) the councillor;
- (c) the Standards Board;
- (d) the clerk to any town or parish council concerned;
- (e) the standards committee of any other authority concerned;
- (f) at least one newspaper circulating in the district.

Where the panel has found that the councillor has not failed to comply with the Code, the notice shall say so and give its reasons for that finding. The councillor can decide that no notice should be published.

Where the panel has found that the councillor has failed to comply with the Code, but that no action needs to be taken, the notice shall give details of the breach, and give the reasons for the decision. The notice must also say that the councillor has the right of appeal.

Where the panel has found that the councillor has failed to comply with the Code, and has imposed a sanction, the notice shall give details of the breach, and the sanction, shall give reasons for the finding and state that the councillor may appeal against it.

Where the panel finds that the councillor did fail to comply and that a sanction should be imposed then

- a) if the councillor no longer belongs to a relevant authority, the panel will censure the councillor and
- b) in any other case, the panel will impose one or more of the sanctions below.
 - (i) censure
 - (ii) restriction of the councillor's access to the authority's premises or resources for up to six months.
 - (iii) partial suspension for up to six months
 - (iv) suspension for up to six months
 - (v) submission of a written apology in a form specified by the panel.
 - (vi) training as specified by the panel
 - (vii) participation in conciliation as specified by the panel
 - (viii) partial suspension for up to six months or until the councillor submits a written apology in a form specified by the panel.**
 - (ix) partial suspension for up to six months or until the Councillor has undertaken training or conciliation as specified by the panel.
 - (x) suspension for up to six months or until the Councillor submits a written apology in a form specified by the panel.
 - (xi) suspension for up to six months or until the Councillor has undertaken training or conciliation as specified by the panel.

Appeal:

Where the panel has found that the councillor has failed to comply with the Code, the councillor may seek permission to appeal to the Adjudication Panel of the Standards Board. The application must be in writing and must be received by the Adjudication Panel within 21 days of the date the member received the notice of the panel's decision. The councillor may at the same time apply for any sanction imposed to be suspended until the appeal is determined.

PARISH GROUPINGS – STANDARDS COMMITTEE

Ripon City Council
Knarebsorough Town Council

EASTERN AREA PARISH COUNCILS (25)

Arkendale & Coneythorpe & Clareton	Little Ribston
Bilton in Ainsty with Bickerton	Long Marston
Boroughbridge	Marion cum Grafton
Cattal, Hunsingore & Walshford	Moor Monkton
Follifoot & Plompton	North Deighton
Goldsborough & Flaxby	Nun Monkton
Great Ouseburn	Sickinghall
Green Hammerton	Spofforth with Stockeld
Kearby with Netherby	Tockwith & Wilstrop
Kirkby Overblow	Weeton
Kirk Deighton	Wighill
Kirk Hammerton	Whixley
Little Ouseburn	

WESTERN AREA PARISH COUNCILS (20)

Bewerley	Killinghall
Birstwith	Lower Washburn
Bishop Thornton & Warsill	Menwith with Darley
Clint cum Hamlets	Mid Wharfedale
Dacre	Newall with Clifton
Felliscliffe	Nidd
Hampthwaite	North Rigton
Hartwith cum Winlsey	Ripley
Haverah Park & Beckwithshaw	Upper Nidderdale
High & Low Bishopside	Washburn

NORTHERN AREA PARISH COUNCILS (29)

Asenby	Littlethorpe
Azerley & Winksley	Markington with Wallerthwaite
Baldersby	Marion le Moor
Bishop Monkton	Masham
Burton Leonard	Melmerby & Middleton
Cundall & Norton le Clay	North Stainley with Slenningford
Dishforth	Rainton with Newby
Fearby, Healey & District	Rocliffe & Westwick
Fountains Abbey	Scotton
Grantley & Sawley	Scriven
Grewelthorpe	Sharow
Hewick & Hutton	Skelton Combined
Kirby Hill & District	Staveley & Copgrove
Kirkby Mazead, Laverton & Dallowgill	Wath & Norton Conyers
Langthorpe	

There are also 11 areas which are not parished but have parish meetings.