

BRISTOL CITY COUNCIL PROCEDURE COMPLAINTS ABOUT BREACHES OF THE CODE OF CONDUCT

1.0 Making a Complaint

- 1.1 If you wish to make a complaint about a councillor or co-optee of Bristol City Council you must complete the [Complaint Form](#) (Appendix A), and provide relevant evidence to substantiate your allegation(s). The form is also available from the Monitoring Officer.

Head of Legal Services
c/o Democratic Services Team
Room 220
Bristol City Council
City Hall
College Green
Bristol, BS1 5TR

2.0 Written Allegations

- 2.1 The Monitoring Officer will receive all complaints. The Monitoring Officer may find that an allegation does not fall to be considered under the [Code of Conduct for Councillors](#) (appendix B) as adopted by Full Council on 19th June 2012. If this is the case, the Monitoring Officer may request further information, or direct the matter through a more appropriate channel.
- 2.2 There are some instances where it is not appropriate to complain through this complaints process eg
- People employed by the Council or Authority or a decision made by an Officer of the Council
 - Incidents that happened before a Member was elected or chosen to serve.
 - The way an Authority conducts or records its meetings.
 - The way an Authority has or has not done something. This might be a matter for the Local Government Ombudsman if the Authority has not dealt with the matter properly and it has not been resolved locally.
 - Complaints about someone who is no longer a Councillor or conduct during their private life, will not be dealt with under this procedure.

If your complaint or comment is regarding one of the options above, please refer to our **Fair Comment** system.

Decisions relating to Planning or Licensing matters where you are unhappy with the decision made should be challenged by way of judicial review.

- 2.3 On receipt of a complaint, a letter of receipt will be sent to the complainant within five working days, with details about how the complaint will be dealt with and in what timescales.
- 2.4 A letter of notification will be sent to the Councillor within five working days, with a copy of the complaint and the name of the complainant, if anonymity has not been requested.
- 2.5 The Councillor will be invited to submit a written statement of fact in reply to the complaint.

- 2.6 The Monitoring Officer may also source further information to help such as (1) copies of acceptance of office and code of conduct forms (2) minutes of meetings (3) copy of register of interests forms (4) info from companies house or land registry (5) other easily obtainable documents in the public sphere. The Monitoring Officer could also contact complainants for clarification of their complaint, or further information.
- 2.7 The Monitoring Officer will consider any request for confidentiality. If confidentiality is refused, the complainant will be given the opportunity to withdraw the complaint before the subject member is informed.
- 2.8 The Monitoring Officer will consider whether, on the basis of the complaint and additional information, there appears to have been a breach of the Code of Conduct.
- 2.9 The Monitoring Officer would in the first instance and where appropriate, seek informal resolution of the case by way of apology or mediation.

3.0 Consideration by the Monitoring Officer

After considering the information provided, the Monitoring Officer may make one of three decisions;

- (i) Decide that no action should be taken- with reasons for this decision OR
- ii) Take other action OR
- iii) May refer the matter for investigation

- 3.1 If the Monitoring Officer decides that no action should be taken then reasons will be stated and the complainant informed. It is likely that no action will be taken where;
- a. there is no prima facie evidence that the Code has been breached;
 - b. taking into account the nature of the allegation, using public funds to examine the matter further would be disproportionate;
 - c. the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
 - d. the conduct complained about has already been the subject of investigation or enquiry by another public body;
 - e. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and there is nothing further to be gained;
 - f. there is not enough information to take the matter further;
 - g. the complaint was made anonymously;
 - h. the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances;
 - i. the member has already apologised for the action that was the subject of the complaint, and that is sufficient to dispose of the complaint;
 - j. the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member(s).
- 3.2 The Monitoring Officer could refer a matter for other action where it would not be in the interests of good governance to conduct an investigation. Other action may be more appropriate where a number of Members have failed to comply with the same paragraph of the Code of Conduct, officers have given incorrect advice leading to the breach or where there has been a breakdown in relationships in the Authority. Examples of other action include training, conciliation and mediation or changes to

Council procedures.

3.3 In order to investigate, the Monitoring Officer can make enquiries of people and request them to provide information or explanation. After consultation with the Independent Person, a written report will then be submitted to the Monitoring Officer for consideration. If there is no finding of a breach of the Code of Conduct then that will be an end to the matter. If there is a finding of a breach and the Monitoring Officer is unable to negotiate an informal resolution between the parties then the matter will be referred to the Audit Committee for consideration.

4.0 Referral to Audit committee

4.1 The Audit Committee will decide whether a formal hearing is required and consider whether this should be dealt with by the full committee or delegated to a Sub-Committee. It will decide upon who should attend and the procedure to follow after considering representations from the complainant and the councillor.

4.2 The Committee/Sub-Committee has the power to reach one of three decisions:

1. The person had NOT failed to comply with the Code of Conduct
2. The person HAD failed to comply with the Code of Conduct, but no action needed
3. The person HAD failed to comply with the Code of Conduct, and a sanction should be imposed.

4.3 Possible sanctions that will be available include

- **To Report on findings to Full Council i.e. “naming and shaming”.**
- **To Recommend to a Group Leader that the member concerned be removed from any committee or sub-committee.**
- **To recommend, In relation to any members of the executive that the member concerned be removed from the Executive.**
- **to recommend the Monitoring Officer to arrange appropriate training for the member concerned.**
- **to recommend removal of any member concerned from any outside body appointments.**
- **to require the withdrawal of Council facilities e.g. use of computer or internet.**
- **to exclude a member from the Council’s offices or other premises except for the purpose of attending formal meetings.**

4.4 Where a breach is found, the Decision Notice will be published on the Council's website.

4.5 The Committee reports and minutes shall be available for public inspection for 6 years after the Hearing unless parts of the Hearing were held in private in which case those parts will not be available for public inspection.

4.6 The Monitoring Officer will consider the allegation within an average of 20 working days (30 working days during the purdah period of six weeks before an election).

4.7 The Monitoring Officer will report back to the Audit Committee quarterly regarding complaints (anonymised) and their resolution/ decision.

Agreed at Audit Committee 28th Sept 2012