

ABERDEEN CITY COUNCIL - PROCEDURE FOR COMPLAINTS AGAINST EXTERNAL MEMBERS

INTRODUCTION

The Education, Culture and Sport Committee of Aberdeen City Council constitutes nineteen elected members and seven external members, comprising three religious representatives, two parent representatives and two teacher representatives. The recently established Shareholder Scrutiny Group, a Sub Committee of the Audit and Risk Committee, includes two members appointed by trades unions.

When appointed, external members are requested to sign a declaration stating that they will abide by the Councillors' Code of Conduct. Elected members are held to account by the Standards Commission in this regard, but the Standards Commission has no jurisdiction over external members on committees of Council.

Aberdeen City Council has therefore produced this document which clearly defines the procedure that will be followed if a complaint is received which alleges that an external member has breached the Code of Conduct.

This procedure is in place to ensure that each complaint is dealt with fairly, openly, timeously, and in a transparent and accountable way.

MAKING A COMPLAINT

A complaint must be made in writing to the Head of Legal and Democratic Services. This may be by letter or by email to the following address:-

Head of Legal and Democratic Services
Town House
Aberdeen AB10 1AQ

janem@aberdeencity.gov.uk

The complaint must clearly state what section of the Councillors' Code of Conduct the complainant believes has been breached, and when the alleged breach occurred.

In no circumstances will an anonymous complaint be considered in terms of this procedure.

ACKNOWLEDGEMENT OF A COMPLAINT

A complaint will be acknowledged within five working days.

NOTIFYING THE PERSON COMPLAINED AGAINST

The individual complained against will be notified of the complaint within five working days. This will be for information whilst the investigative stages are held.

RESPONSIBILITY FOR INVESTIGATING THE COMPLAINT – THE INVESTIGATING OFFICER

On receipt of a complaint, the Head of Legal and Democratic Services will appoint an Investigating Officer drawn from senior managers with experience of conducting investigations.

ROLE OF SUPPORTER

An individual who faces an investigation is entitled to choose a 'supporter' who may, but not necessarily, be from the organisation they represent. The individual complained against has the right to be accompanied by a supporter at all or any meetings relative to the investigation.

INITIAL MEETING WITH INDIVIDUAL COMPLAINED AGAINST

A meeting will be arranged as soon as possible between the Investigating Officer and the individual who is the subject of the complaint. This is an exploratory meeting.

DETERMINING FURTHER INVESTIGATION

Following this meeting, the Investigating Officer will determine whether –

- (1) the complaint has no substance and is to be rejected.
- (2) the complaint warrants further investigation; and
- (3) an interim suspension from the Committee or Sub Committee is warranted.

The Investigating Officer will advise the individual complained against of the decision in this regard within five working days of the exploratory meeting.

DECISION

If the Investigating Officer determines that the complaint warrants further investigation, this will be undertaken in the shortest possible timescale, and in any case within 20 working days, unless an extended period has been agreed with the Head of Legal and Democratic Services.

The Investigating Officer will compare decisions published on the Standards Commission website to assist in ensuring the compatibility of any sanction being contemplated with those applied to elected members.

The Head of Legal and Democratic Services will report to a Complaints Sub Committee of the Finance, Policy and Resources Committee, being the Council Committee responsible for overseeing the Councillors' Code of Conduct. A determination of "rejected", "upheld" or "partially upheld" and the findings upon which the determination rests, will be made by the Committee.

For clarity, this report will be considered in confidence, due to the data protected information it will contain.

If the complaint is **REJECTED** –

- (a) the interim suspension of the individual complained against, if in place, is lifted with immediate effect, and
- (b) the individual complained against and the organisation they represent on the Committee or Sub Committee are advised of this decision in writing (by letter or email).

If the complaint is **UPHELD or PARTIALLY UPHELD** –

- (a) the suspension of the individual complained against, if in place, is continued until (b) below has been determined,
- (b) the Complaints Sub Committee is requested to determine (1) whether the organisation the individual complained against represents on the Committee or Sub Committee should appoint a replacement member, (2) whether the individual complained against should be suspended as a member of the Committee or Sub Committee for a period of time, in addition to the initial suspension, (3) whether the individual complained against could be offered training in the Code of Conduct in order to mitigate against a further breach occurring, (4) that no further action should be taken, or (5) any other action deemed appropriate,
- (c) the individual complained against and the organisation they represent on the Committee or Sub Committee will be advised of the decision in writing (by letter or email).

APPEAL STAGE

If the individual complained against wishes to appeal the decision of the Complaints Sub Committee, this must be intimated in writing (by letter or email) to the Head of Legal and Democratic Services within ten working days of the date of the letter of determination by the Investigating Officer.

The Head of Legal and Democratic Services will appoint a new Investigating Officer who will consider the original complaint, the determination of the

Complaints Sub Committee, and the submission of appeal from the individual complained against, and will prepare a report for submission to the next meeting of the Finance, Policy and Resources Committee.

Any member who was present at the Complaints Sub Committee meeting when the complaint was considered, must withdraw from the meeting.

FINAL STAGE – IF APPEAL LODGED

If the complaint is **REJECTED by Committee** –

- (a) the interim suspension of the individual complained against, if in place, is lifted with immediate effect, and
- (b) the individual complained against and the organisation they represent on the Committee or Sub Committee are advised of this decision in writing (by letter or email).

If the complaint is **UPHELD** –

- (a) the original decision of the Complaints Sub Committee will be implemented, and
- (b) the individual complained against and the organisation they represent on the Committee or Sub Committee are advised of this decision in writing (by letter or email)..

AFTERMATH

The contents of the file are likely to be considered personal information and, as such, would be exempt from a direct request for access under Freedom of Information.

The file will be destroyed securely at the conclusion of procedures in line with Council policy.

The complainant will be advised in writing (by letter or email) as to whether the complaint was rejected, upheld, or partially upheld. Complainants will always have recourse to legal action and this procedure would not negate those rights.