

Arrangements for dealing with Standards Complaints

1. Introduction

The Council has a duty to promote and maintain high standards of conduct for its elected and voting co-opted members and have arrangements in place to investigate complaints of alleged breaches of the Code of Conduct, pursuant to the Localism Act 2011.

In doing so, the Council has adopted a Code of Conduct for members, which is available to at [Section 10 a Members code of Conduct](#). Alternatively, you can request a copy by emailing monitoringofficer@teignbridge.gov.uk.

The Code of Conduct sets out the standards of behaviour expected by all members and voting co-opted members of the Council to observe whenever they are carrying out Council business. It also includes provisions for registering and declaring pecuniary and other interests.

The Council is also responsible for dealing with Complaints regarding parish or town council members in the Teignbridge area who have alleged to have breached their Code of Conduct. Codes of Conduct of their choosing have been adopted by town and parish Councils in the Teignbridge area. These are available on their websites or from the Parish Clerk.

These arrangements set out how to make a Complaint that an elected or voting co-opted member of the Council or a town or parish Member has failed to comply with their Council's Code of Conduct. It also sets out how the Council will deal with a Complaint alleging a breach of the Code of Conduct.

In dealing with Complaints, the Council will be fair to both You and the Subject Member and aim to progress matters in accordance with the timescales set out in these arrangements. Where the Council is unable to meet the timescales and where there is a significant delay in progressing the Complaint, the parties will be updated accordingly.

Complaints will be handled in the strictest confidence at all times.

These arrangements are designed to be proportionate, timely and fair to both sides. Its overriding objective is to seek to provide pragmatic local solutions to local problems wherever possible and to avoid costly and time-consuming formal investigations. The handling of Complaints will be undertaken on the basis of what is reasonable and proportionate, having regard to all relevant issues including the detail of the Complaint, an objective assessment of the significance of the alleged breaches, the public interest, and the cost to the public purse of administering the Complaints process, both for

individual Complaints and overall. All steps within the Complaints Process are underpinned by the public interest.

The arrangements for dealing with Code of Conduct Complaints must provide for the Council to appoint at least one Independent Person, who's views must be sought before taking a decision on an allegation which it had decided shall be investigated, and who's views may be sought by the Monitoring Officer at any other stage, or by a Subject Member.

The Council has a duty to ensure there is no conflict of interest with officers when undertaking standards investigations. If a conflict of interest is identified, it will be determined in consultation with an Independent Person whether the matter should be dealt with by an alternative officer and a written record of their decision will be filed.

The Council has a clear and straightforward public interest test as set out in at Annex 1 which is applied by the Monitoring Officer when considering Complaints.

2. Definitions/Glossary of Terms

The following terms used throughout these arrangements are defined as below.

Appeals Validity Check: as set out in section 19 of these arrangements.

Assessment Criteria: as set out at section 11 of these arrangements.

Code of Conduct / Code: The Councils Member's Code of Conduct which has been adopted by the relevant Council.

Committee: The Governance Committee appointed by the Council. The oversight of Complaints against members sits with the Committee. The Committee is a group of members appointed by full council to help maintain and promote high ethical standards. The Committee will invite the Independent Person(s) to attend all meetings, and their views are sought and taken into consideration before the Committee takes any decision on consideration of an investigation report on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with it.

Complainant / You: – The person or people who has submitted the Complaint or Appeal to the Monitoring Officer about the Subject Member.

Complaint: A complaint received by the Monitoring Officer from a Complainant through the Complaints Process for members.

Complaints Process: the complaints process adopted by Teignbridge District Council for the investigation of Code of Conduct Complaints.

Council: the relevant authority in which the Subject Member is a member of.

Independent investigator: A person, independent from the Council who has been appointed by the Monitoring Officer to undertake a formal investigation into allegations of a breach of the Code.

Independent Person: A person appointed under the Localism Act 2011 in an advisory and consultative role in relation to Complaints and who's views are before a decision on a Complaint is made. The Monitoring Officer may also seek the views of an Independent Person at any stage and on any aspect of a Complaint. The Independent Person will also provide, on request, procedural advice to the Subject Member and/or provide support to the Committee.

Any view given by the Independent Person will be recorded by the Monitoring Officer and kept on file. The Monitoring Officer has discretion to share the view provided by the Independent Person with the Complainant and/or Subject Member, subject to confirmation from the Independent and in line with data protection requirements.

LGSCO: the Local Government and Social Care Ombudsman is an independent, impartial service that investigates complaints about local authorities, social care providers, and other public bodies in England where a person has suffered injustice due to maladministration.

Member: an elected or voting co-opted member of an authority in which falls within the Teignbridge area.

Monitoring Officer: a senior Officer of Teignbridge District Council who has statutory responsibility for maintaining the register of councillor's interests and who is responsible for administering the process in respect of Complaints of member misconduct. Reference to 'Monitoring Officer' shall include their nominated deputy or any other authorised officer, authorised by the Monitoring officer to carry out the duties of the Monitoring Officer under the Complaints Process. The Monitoring Officer can be contacted by emailing monitoringofficer@Teignbridge.gov.uk.

Officer: an employee of the Council.

Political Group Leader: the leader of the political party in which the Subject Member is assigned to. If the Subject Member is not aligned with any party, this will be the Leader of the Council.

Subject Member: The member against whom an allegation has been made.

Validity check: – as set out in section 8 of these arrangements.

3. How to make a Complaint

This section sets out how to submit a Complaint about a member of the Council.

All Complaints under the Complaints Process are required by law to be in writing. To ensure that we have all the information required to progress the Complaint, they must be made by submitting the Council's online complaint form.

We can provide assistance to you if you have a disability that prevents you from making a Complaint or makes it difficult for you to put your Complaint in writing and you have no other assistance available to you. We can also help if English is not your first language. If you have any questions or difficulties completing the complaint form, please contact the Monitoring Officer by emailing monitoringofficer@teignbridge.gov.uk.

Please note that the Council does not usually investigate anonymous Complaints, unless there is a clear public interest in doing so. Please refer to section 6 for further information on anonymous Complaints.

The Monitoring Officer will review all Complaints received and they will be handled in the strictest confidence at all times.

4. When should you use this Process?

The Complaints Process is for the consideration of potential breaches of the Code of Conduct and cannot be used to investigate matters outside of this scope. Matters that cannot be investigated or considered through the Complaints Process include (but not limited to);

- Complaints made against a Council as a whole will be rejected and need to be referred to the Council in question for consideration under their own procedures. The Monitoring Officer can tell you who to contact.
- Complaints about people employed by the Council or a decision made by an Officer of the Council.
- Complaints about the way the Council conducts or records its meetings.
- Complaints about the way the Council has or has not done something. This might be a matter for the LGSCO if the Council has not dealt with the matter properly and it has not been resolved locally.
- Complaints about someone who is no longer a member or conduct that took place when they were not acting as a in their official capacity.

- Complaints about decisions relating to planning or licensing. These matters should be challenged by way of judicial review.
- Complaints in respect of clerks to Councils. As they are employees of their respective authorities, the correct Council's policy will need to be followed for this.

5. What to include in your Complaint?

It is very important that anyone making a Complaint gives as much detail as possible as a Complaint containing insufficient information may result in it being rejected.

All Complaints will need to clearly set out and include the following information;

- The name of the Member the Complaint is about.
- Details of what the Member has done that you believe breaches the Code of Conduct. You should be specific, wherever possible, about exactly what you are alleging the Member said or did.
- The sections of the Code which you believe they have breached. Please note that whilst the Nolan Principles form the basis on which the Code has been developed, they do not necessarily give rise to a breach in themselves. As such, the relevant section of the Code should be set out rather than reference to the Nolan Principle in which you believe has not been followed.
- The dates of the alleged incidents. If you cannot provide exact dates, there must be a general timeframe.
- Where a Complaint relates to conduct which took place over 6 months prior to the Complaint, the delay for making the Complaint must be explained. The Monitoring Officer may reject it in absence of reasonable explanation.
- Details of any witnesses to the alleged conduct, including their contact details.
- All relevant background information and supporting information and/or evidence.
- What action you think would be appropriate to resolve your Complaint, with regard to the range of sanctions in section 17 of these arrangements.

Potential Complainants are encouraged to explore whether the matter can be resolved without the need to submit a formal Complaint under the Complaints Process. Please

speak to the Monitoring Officer who will be happy to advise you on the options available to you.

6. Anonymity and Confidentiality

As a matter of fairness and natural justice, anonymous Complaints will ordinarily be rejected but the Council may investigate an anonymous Complaint on an exceptional basis, such as if there is a clear public interest in doing so. Likewise, if an anonymous Complaint suggests that a criminal offence has been committed, the Monitoring Officer will determine whether it is appropriate to refer the Complaint to the police or some other relevant body.

You must therefore provide their name, address and, where possible, their email address.

If you want to keep your name and address or email confidential, you should indicate this in the space provided on the Complaint form and a reason why this should be honoured.

The request will be considered by the Monitoring Officer prior to the Subject Member being notified that a Complaint has been made, but anonymity cannot be guaranteed. In consideration of the request, the Monitoring Officer will consider the following;

- Whether the Complainant reasonably believes that they, or those connected to them, will be at risk of harm if their identity is disclosed.
- Whether the Complainant is alleging harassment, bullying, or victimisation.
- That the Complainant is reasonably concerned about the consequences to their employment, or those connected to them if their identity is disclosed.
- That the Complainant, or somebody closely connected to them, suffers from a medical condition and there is evidence of medical risks associated with their identity being disclosed or confirmation from an appropriate medical professional that that is the case.

If the Monitoring Officer decides to refuse a request for confidentiality, they will offer You the option to withdraw the Complaint, rather than proceed with your identity being disclosed. Complainants must recognise that maintaining confidentiality may hinder the effectiveness of any investigation.

7. Receipt of a complaint

Receipt of the Complaint will be acknowledged within 5 working days, with details about how it will be dealt with and in what timescales.

The Monitoring Officer will consider requests for confidentiality pursuant to section 6 of these arrangements.

The Monitoring Officer may carry out preliminary enquiries and contact You for clarification of your Complaint, or further information, if necessary, prior to carrying out the validity check. Where additional information is requested but not provided within 10 working days of the request the Monitoring Officer may close the Complaint. You will be notified of its closure.

Once the Monitoring Officer is satisfied that they have all the required information, the validity check will be carried out.

8. The Validity check – Can we deal with this complaint

A validity check is carried out to establish whether or not the Monitoring Officer can deal with the Complaint.

The Validity Check is a jurisdictional test and the Monitoring Officer will ask the following;

- Is the Subject Member a member of a Council which falls under the jurisdiction of these arrangements?
- Was the Subject Member a member of the Council at the time of the alleged conduct?
- Was the Subject Member acting, or could reasonably be perceived to be so acting in their official capacity as a member at the time of the alleged misconduct?
- If proven, would the alleged conduct amount to a breach of the Code of Conduct under which the Subject Member was operating at the time. The Complaint will have to demonstrate reasonable grounds for believing that the Subject Member has breached the Code of Conduct.

If the answer to any of the above criteria is 'no', the Complaint is considered invalid and cannot be investigated as a breach of the Code. You will be informed that no further action can be taken in respect of the Complaint and the Monitoring Officer will advise you of any relevant appeals process.

9. Notifying the Subject Member

Once a Complaint has passed the Validity Check and it is assessed that there may be a breach of the Code, the Monitoring Officer will notify You that the Complaint has been accepted as a formal complaint and notify the Subject Member and supply a full copy of the Complaint to them. They will be asked to respond to the Complaint in writing within 14 days of being notified. The Monitoring Officer has the discretion to extend this timeframe in exceptional circumstances.

The Subject Member, depending on the matter may also be asked to provide their views on informal resolution and will be notified that they may seek the views of an Independent Person at any stage of the Complaints Process.

Where appropriate, the Monitoring Officer may also contact the clerk of the relevant town or parish Council and such other persons as the Monitoring Officer feels appropriate to provide additional information.

The Subject Member will either;

- Respond in writing to the Monitoring Officer, with documentation if appropriate; or
- Confirm to the Monitoring Officer that they do not wish to provide a written response to the Complaint.

Failure to respond to the Monitoring Officer may be considered as unwillingness to cooperate with a Code of Conduct investigation contrary to paragraph 8.2 of the Council's Code of Conduct.

There may be rare occasions upon which a Subject Member will not be notified that a Complaint has been made against them. In deciding not to notify the Subject Member, the Monitoring Officer will weigh up different factors and consult with the Independent Person when reaching this conclusion.

Once the Subject Members response has been received, or the 14 days has passed since the Subject Member was asked to respond, the Complaint will be considered as per step 4 of the Complaints Process.

10. The Assessment Process

Before making any decision regarding the Complaint, the Complaint, any representations made by the Subject Member and any additional information acquired will be referred to an Independent Person who will provide their views on the consideration of the Complaint. The Monitoring Officer considers the views put forward by the Independent Person before making a decision.

The Independent Person and the Monitoring Officer will use the assessment criteria set out below to form a view on how the Complaint should be dealt with.

11. Assessment Criteria – Should we deal with this complaint?

The Monitoring Officer and the Independent Person will apply the following assessment criteria to decide what action, if any to take in respect of the Complaint. Your Complaint will usually be rejected at this stage if, in the opinion of the Monitoring Officer, any of the following criteria applies.

Assessment Criteria;

1. The Complaint does not contain sufficient evidence to demonstrate a potential breach of the Code.
2. The Complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the Complaint is exceptionally serious or significant.
3. The Complaint is by one member against another which does not go beyond the greater allowance for robust political debate (but not personal abuse), bearing in mind the right to freedom of expression.
4. The Complaint in the view of the Monitoring Officer is trivial, malicious, politically motivated or 'tit for tat' and therefore does not disclose significantly serious potential breaches of the code.
5. The Complainant is unreasonably persistent or malicious or is considered vexatious in line with the Council's vexatious complaints policy.
6. It would otherwise be inappropriate to expend the Council's resources on determining the Complaint having regard to the circumstances of the Complaint, any previous related complaints, and the public interest – see annex 1 for information on public interest.
7. That a simple apology, training or conciliation would be the appropriate response to the Complaint.
8. A reasonable offer of local resolution is offered by the Subject Member but rejected by the Complainant.
9. The Complaint is the same or substantially the same (and involves the same event or set of circumstances) as a complaint which has previously been considered whether submitted by the same Complainant or some other person and where no new evidence has been provided.

10. The Complaint is the same or substantially the same (and involves the same event or set of circumstances) as a complaint which has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken.
11. The behaviour that is the subject of the Complaint has already been addressed with the Subject Member.
12. The alleged misconduct being complained of happened more than 6 months ago (or 6 months has passed since the Complainant became aware of the alleged behaviour) and it would be unfair, unreasonable or otherwise not in the public interest to pursue unless there are, in the Monitoring Officers opinion, exceptional circumstances which would warrant the Complaint begin progressed.
13. The circumstances have changed so much that there would be little benefit arising from an investigation or other action.
14. The Complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter such as where there is no firm evidence on the matter.
15. The Complaint actually relates to dissatisfaction with a Council's decision rather than the specific conduct of an individual.
16. The Complaint is about a member who is seriously ill or deceased.

12. Outcomes following assessment

The Monitoring Officer may reach one of three decisions on an allegation:

- No further action should be taken.
- The matter should be dealt with through a process of informal resolution in the first instance.
- The matter should be referred for formal investigation.

If the Monitoring Officer considers that one or more of the Assessment Criteria applies to the Complaint, no further action will be taken, and it will be rejected.

If the Monitoring Officer decides that the matter should be dealt with through informal resolution or referred for formal investigation, the Complaint will progress to the relevant step of the Complaints Process.

On completion of this assessment, the Monitoring Officer will provide You with a decision as to the outcome and what action is to be taken, if any. The Subject Member and their Political Group Leader will be similarly informed. Where the complaint involves a parish or town council member, the Clerk to that council will be informed.

Where there is disagreement between the Monitoring Officer and Independent Person on how to deal with the Complaint, full details of how the final decision has been made will be kept on file.

The decision will normally be sent within 15 working days of receipt of the Subject Members comments pursuant to step 3 of the Complaints Process however where a decision is unable to be made within that timeframe, the You and Subject Member will be updated accordingly, and a new time frame will be provided.

13. Referral to the Police or other regulatory authorities

If the Complaint identifies criminal conduct or a breach of other regulations by any person, the Monitoring Officer may refer the matter to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code.

In such circumstances, it may not be appropriate to continue to progress the Complaint until the conclusion of the Police investigation unless there has been confirmation with the relevant police contacts that it would not prejudice their investigations.

Where the Monitoring Officer considers it appropriate to refer a Complaint to the Police or other external authority, they will inform the chair of the Committee of the decision.

14. Informal resolution

An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals. Where possible and appropriate, the Monitoring Officer will try to resolve the Complaint informally without the need for a formal investigation.

The decision to resolve the Complaint informally will normally be an alternative to a referral for investigation, and the purpose will not be to determine whether or not the Subject Member has breached the Code. In such cases, the Monitoring Officer will make it clear to the parties involved that no conclusion has been reached about what happened and no decision has been made as to whether or not the Subject Member has breached the Code of Conduct.

Matters which the Monitoring Officer might consider appropriate for informal resolution may include (but not limited to);

- Less serious Complaints.
- When the Subject Member accepts that there are grounds for the Complaint and offers an apology.
- Complaints containing allegations and retaliatory allegations from the same members particularly where this is to such an extent that it becomes difficult to conduct the business of the Council.
- Complaints where the public interest in conducting an investigation does not justify the costs of an investigation.
- Where informal resolution provides the best opportunity to resolve the issue, prevent any similar issues arising in the future and promote good governance.
- Less serious Complaints where the Subject Member wishes to put their actions right or where it would be beneficial to remind a Subject Member of the requirements of the Code of Conduct, matters that should be included on their Register of Interests or declarations of interest at meetings.
- Where there is a general breakdown of relationships where other action such as mediation might help, including those between members and Officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the Council.
- Where the issue appears to be in the political arena and therefore appropriate for referral to a leader(s) of a political group to deal with or the clerk of the relevant town or parish Council.
- Where it is apparent that there is a lack of experience or understanding of the Code and relevant procedures by the Subject Member and training is required.
- Where the same particular part of the Code has been breached by many members, indicating poor understanding of the Code and the Council's procedures and/or protocols.

Informal resolution can include (but not limited to) the following actions;

- The Subject Member offering an apology;
- The Subject Member accepting their conduct was unacceptable;
- The Subject Member providing an explanation to the Complainant of the circumstances surrounding the Complaint;
- The Subject Member agreeing to attend relevant training or to take part in a mentoring process;
- The Monitoring Officer arranging mediation or conciliation between the Subject Member and the Complainant;
- The Monitoring Officer referring the complaint to the Political Group Leader of the Subject Member.
- Any other steps (not including investigation) which appear appropriate in resolving the Complaint.

Where the Monitoring Officer has decided that informal resolution is the most appropriate way forward, the resolution put forward must be resolved to the satisfaction of the Monitoring Officer.

Where the informal resolution is accepted by You then the matter will be closed, and the Monitoring Officer will confirm this in writing to You and the Subject Member. If You are not willing to accept the informal resolution put forward, the Monitoring Officer has the discretion to decide whether the Complaint warrants any further action.

The Subject Member should comply with the recommended actions where relevant within 4 weeks of the decision notice being sent.

At the conclusion of the local resolution process, the Monitoring Officer will notify both You and Subject Member of the outcome of the Complaint and that there is no further action to be taken. You will also be notified of any relevant appeals process.

If the Subject Member fails to comply with the informal resolution put forward, the Complaint will, in the first instance be referred to the relevant political group leader. If action has not been complied with within 4 weeks after this, the matter will be considered by the Monitoring Officer and the Independent Person as to whether a finding can be made on the Complaint with or without a formal investigation. Informal resolution remains open to the parties throughout the Complaints Process even if a Complaint has proceeded to the formal resolution stage.

15. Formal Investigation criteria

Where the Monitoring Officer, in consultation with the Independent Person decides that a Complaint merits a formal investigation, and that formal investigation is warranted in the public interest to establish the facts, they will appoint an Independent Investigator. Complaints will normally be referred for investigation where there are potentially serious breaches of the Code and/or where it would be in the public interest to formally investigate. The Monitoring Officer will need to make a judgement balancing the resources of the Council and the scale and nature of the Complaint.

The Monitoring Officer will let all those involved know that this is the case and the process that will be followed, including the Subject Member's Political Group Leader. Where the complaint involves a parish or town council member, the Clerk to that Council will be informed.

The Independent Investigator will follow any of the Council's processes or guidance on the investigation of Complaints. The Independent Investigator will follow the principles of proportionality and the cost-effective use.

The Independent Investigator will:

1. Decide whether to conduct interviews or invite statements.
2. Decide who to interview (by phone or in person at the Independent Investigator's discretion).
3. Ask for relevant supporting documentation from any of the relevant parties.

Whilst the investigation will be undertaken as expeditiously as reasonably practicable, it is not possible to specify a timescale within which the investigation must be concluded.

At the end of a formal investigation, the Independent Investigator will submit a draft report to the Monitoring Officer who will send the report to You and the Subject Member to review and respond as appropriate and within 14 days. The Monitoring Officer will also send a copy of the draft report to the Independent Person for their information only.

Following receipt of response from You and Subject Member, the Monitoring Officer will then refer back to the Independent Investigator who will issue a final report.

The Monitoring Officer will submit the final report with any recommendations or comments to the Committee so that a decision as to any action or sanction to be imposed as appropriate can be made.

16. Discontinuance of an investigation

The Independent Investigator should provide an update and/or regular progress reports on the investigation to the Monitoring Officer. Updates on progress may be provided by the Independent Investigator to the You or Subject Member, where requested.

At any point during the investigation the Independent Investigator may refer the matter back to the Monitoring Officer if they believe that the matter may be resolved without a complete investigation, or that the Complaint should be rejected. The Monitoring Officer will, in consultation with the Independent Person, determine next steps.

The Independent Investigator will be asked to produce a summary report if the Monitoring Officer agrees that the investigation should not continue. The Monitoring Officer will not be required to automatically share this report but will consider its release to You and the Subject Member on a case-by-case basis in line with data protection requirements.

17. Available Sanctions for breaches to standards

Where a Subject Member is found to have breached the Code of Conduct the sanctions set out below are available to the Monitoring Officer and the Committee as appropriate. There are limitations on the potential outcomes to standards complaints and to the potential sanctions where a Subject Member is found to have breached the code. In relation to the town or parish Councils in the area, only recommendations of a particular sanction can be provided, but the Monitoring Officer or the Committee do not have the power to enforce compliance.

It is important to note that the Council does not have the power to suspend or disqualify a Subject Member or to withdraw their members' allowances. In addition, neither the Committee nor the Monitoring Officer have the power to enforce compliance with any sanctions decided. If a Subject Member fails to comply with any sanction, this may constitute a further breach of the Code of Conduct. As such, consideration should always be given to setting a clearly defined time period for any sanction to be complied with and to set out any action or further sanction, if any may be undertaken if the sanction is not complied with.

Possible sanctions that are available include (but not limited to);

- To formally report the findings to full council for information and noting or in the case of members of a town or parish council, formally report to the members of that council for information.
- To recommend to full council that the Subject Member should be issued with a formal censure (such as the issue of an unfavourable opinion or judgement or reprimand) motion.

- To require the Subject Member to provide an apology at the next full council meeting.
- To request the Subject Member remove any social media content which led to the Complaint.
- To recommend to the Subject Member's political group leader (or in the case of ungrouped members recommend to full council or to committees) that the Subject Member is removed from any or all committees or sub committees of the Council.
- To recommend to the Subject Member's political group leader (or in the case of ungrouped Members, the Leader of the Council) that the Subject Member is removed from particular portfolio responsibilities or from all outside appointments to which they have been appointed or nominated.
- To require the Subject Member to attend training.
- To place such restrictions on the Subject Member's access to staff, buildings or parts of buildings of the Council's offices or other premises (with the exception of meeting rooms when attending full council or committees) which may be reasonable in the circumstances.
- To withdraw facilities provided to the Subject Member by the Council, such as a computer, website, and/or email and internet access, but only if the breach of the Code warrants such a sanction but must not prevent the Subject Member from carrying out their duties as a member. In this case, there would be a requirement to ensure constituents were represented and solutions needed to ensure this continued.
- To bar the Subject Member from the Council offices and put on single point of contact but only if the breach of the Code warrants such a sanction but must not prevent the Subject Member from carrying out their duties as a member.
- To recommend to full council to issue a press release or other form of publicity in respect of the findings of the Subject Member's conduct.

18. Appeals

At the conclusion of the Complaint, You, or the Subject Member may have a right to appeal the decision made.

A right of appeal is provided for at the conclusion of step two, step six and step nine.

Within 5 days of receiving your appeal, your request will be acknowledged along with details about how it will be dealt with and in what timescales.

The appeal will then be reviewed by the Monitoring Officer and an Independent Person unconnected with the original decision.

19. Appeals Validity Check

The Monitoring Officer, in consultation with the Independent Person will then carry out a validity check to establish whether or not the appeal is valid.

To be considered valid, the appeal must;

- Be submitted within 14 days of receipt of the decision letter.
- Set out substantive reasons why the appeal should be considered. Substantive reasons include;
 - Reasons which have not previously been provided to support the Complaint; together with
 - Any supporting evidence or documents which are relevant but which have not been previously provided.
- Confirm the desired outcome of the appeal.

The appeal will not be considered to be valid if it simply expresses disagreement with the decision without giving substantive reasons. Similarly, simply repeating the original Complaint will result in the request for review being rejected.

If the appeal does not meet the Appeals Validity Check the Monitoring Officer will confirm to You in writing that the appeal cannot be considered and the reasons for this.

20. How appeal will be dealt with

If the appeal passes the Appeals Validity Check, a review of the decision will be undertaken, unless there are compelling grounds not to do so, such as having regard to the substance of the request, the Independent Persons views and what is in the public interest.

However, the Monitoring Officer may make an exception where, in their absolute discretion and having regard to all the circumstances, they consider it reasonable and proportionate to agree to a review request that would otherwise not be accepted, for lack of new information or evidence. The expectation is that this discretion will only be exercised in exceptional circumstances.

You, and the Subject Member will be advised in writing whether the review request is accepted or rejected and, if rejected, the reasons for rejection.

Where any new information, documents or evidence is submitted in support of the appeal, in the interests of natural justice, the same will be sent to the Subject Member who will be asked to provide a written response within 14 days of being notified. The Subject Member will be made aware of their right to consult an Independent Person.

The Monitoring Officer, in consultation with the Independent Person will consider the appeal, any new documents/evidence.

The Assessment Criteria will be used to assess the appeal.

The Monitoring Officer may reach one of three decisions on an appeal:

- No further action should be taken.
- The matter should be dealt with through a process of informal resolution in the first instance.
- The matter should be referred for formal investigation.

On completion of the assessment, the Monitoring Officer will provide You with a decision as to the outcome of the appeal and what action is to be taken, if any. The Subject Member will be similarly informed.

If the Monitoring Officer considers that one or more of the Assessment Criteria applies to the Complaint, no further action will be taken, and the appeal will be rejected.

If the Monitoring Officer decides that the matter should be dealt with through informal resolution or referred for formal investigation, the Complaint will progress pursuant to the Complaints Process.

On conclusion of the appeal, the Monitoring Officer will inform both You and the Subject Member of their right to refer to LGSCO for review.

21. Discontinuing a Complaint

The Monitoring Officer may discontinue a Complaint where they consider it appropriate to do so in the following circumstances;

- where the Subject Member ceases to be a member for any reason;

- where the Complainant has not provided any additional information requested by the Monitoring Officer.

Where a Complaint is discontinued, the Monitoring Officer will write to You setting out the reasons for the decision.

Requests by You to withdraw Complaints will normally be granted but the Monitoring Officer will consider the following factors:

- Whether the public interest in taking action on the Complaint outweighs the Complainant's desire to withdraw it;
- Whether the Complaint is such that action can or should be taken on it without the Complainant's participation; and
- Whether there appears to be an identified underlying reason for the request to withdraw the Complaint; such as information to suggest that the Complainant may have been improperly pressured into withdrawing the Complaint or is at risk of such.

Even if a request to withdraw a Complaint is received, the Monitoring Officer may still refer it for determination under these arrangements or refer it to the appropriate professionals or body if, in the opinion of the Monitoring Officer, such action is reasonable and proportionate. This may be appropriate, for example, if the Complaint discloses potentially significant probity issues, possible criminal offences or safeguarding issues. If the request to withdraw is received after assessment has started the Monitoring Officer will determine whether the request will be agreed or the processing of the Complaint is to continue.

Annex 1

1. Public Interest

The Complaints Process for Members is crucial in achieving standards of conduct that meet public expectations. Through the Complaints Process, the Council aims to support proper decision making, the proper use of public resources, and to maintain public confidence in the Council and the democratic process itself. Undertaking investigations that do not support these wider benefits is not in the public interest.

It is important that the Council focuses investigations on matters that are serious and are capable of undermining the relationship between members and the public they serve. Limited resources should not be used to investigate matters which are trivial, or which have little or no impact upon the public.

The public in this context does not necessarily mean the entire population of Teignbridge. It may refer to a distinct section of the public such as a small community or interest group.

Where the Monitoring Officer is satisfied that a Complaint is supported by direct evidence which, substantiated, would suggest that a breach may have taken place, the public interest is considered in deciding whether a Complaint against the Subject Member can and should be investigated. The public interest is again considered during the course of an investigation to ensure that it should continue and when determining whether a matter should be referred to an Independent Investigator for further consideration.

Public interest is regarded as 'something that is of serious concern and benefit to the public'. It has also been held that the public interest does not mean what is of interest to the public, but what is in the interest of the public.

It is important that the Council focuses on investigations where the Complaint is serious and capable of undermining the relationship between members and the public they serve such as; corruption, bullying, damaging the Council's public image, bringing the Council into disrepute, or the misuse of power in public office.

When considering the public interest, the Monitoring Officer and Independent Person shall consider each of the following public interest factors set out below. These factors are not exhaustive and not all may be relevant in every case.

The weight attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case;

- The seriousness of the breach, for example, has the Subject Member brought the Council seriously into disrepute? The more serious the breach the more likely

investigation is required. Robust challenge is, however, part of a member's role and a balanced approach therefore needs to be taken.

- Has the Subject Member deliberately sought personal gain for themselves or another person? If there is evidence of this, it is likely that the Complaint will be investigated.
- Are the circumstances of the alleged breach such that a Subject Member has misused a position of trust or authority and caused harm to a person? If there is evidence of this, it is likely that the Complaint will be investigated.
- Is there evidence of previous similar behaviour on the part of the Subject Member? If so and the matter complained about is serious enough it is likely that the Complaint will be investigated.
- Is the alleged breach such that an investigation is required to maintain public confidence in elected members? If so it is likely that the Complaint will be investigated and referred for further hearing.
- Is investigation a proportionate response? Namely, would the cost of an investigation be regarded as excessive when weighed against any likely sanction?

2. Consideration

When taking any of the above factors into account, relevant considerations can include

- the circumstances surrounding the Complaint;
- when an incident, event or behaviour occurred, the extent to which the Subject Member was responsible for, or was to blame for, the alleged breach;
- whether the alleged conduct was premeditated and/or planned; and
- whether the alleged conduct has caused harm or impacted on another person, group or body.

Views expressed by You, or any other person affected by the alleged conduct, relating to the impact and effect should also be considered. Other considerations may be:

- whether there is evidence of previous similar behaviour on the part of the Subject Member;

- whether the Subject Member been the subject of any previous Complaints or investigations for a similar matter. Is the alleged conduct ongoing, repeated or is there evidence of escalating behaviour;
- whether the investigation is required to maintain public confidence in elected members within Teignbridge;
- whether investigation is a proportionate response. Consider whether it is likely that the breach would lead to a sanction being applied to the member and whether the use of resources in carrying out an investigation would be regarded as excessive, when weighed against any likely sanction.

Public interest should not be decided on the basis of resource alone, but this is a relevant consideration when making an overall assessment.