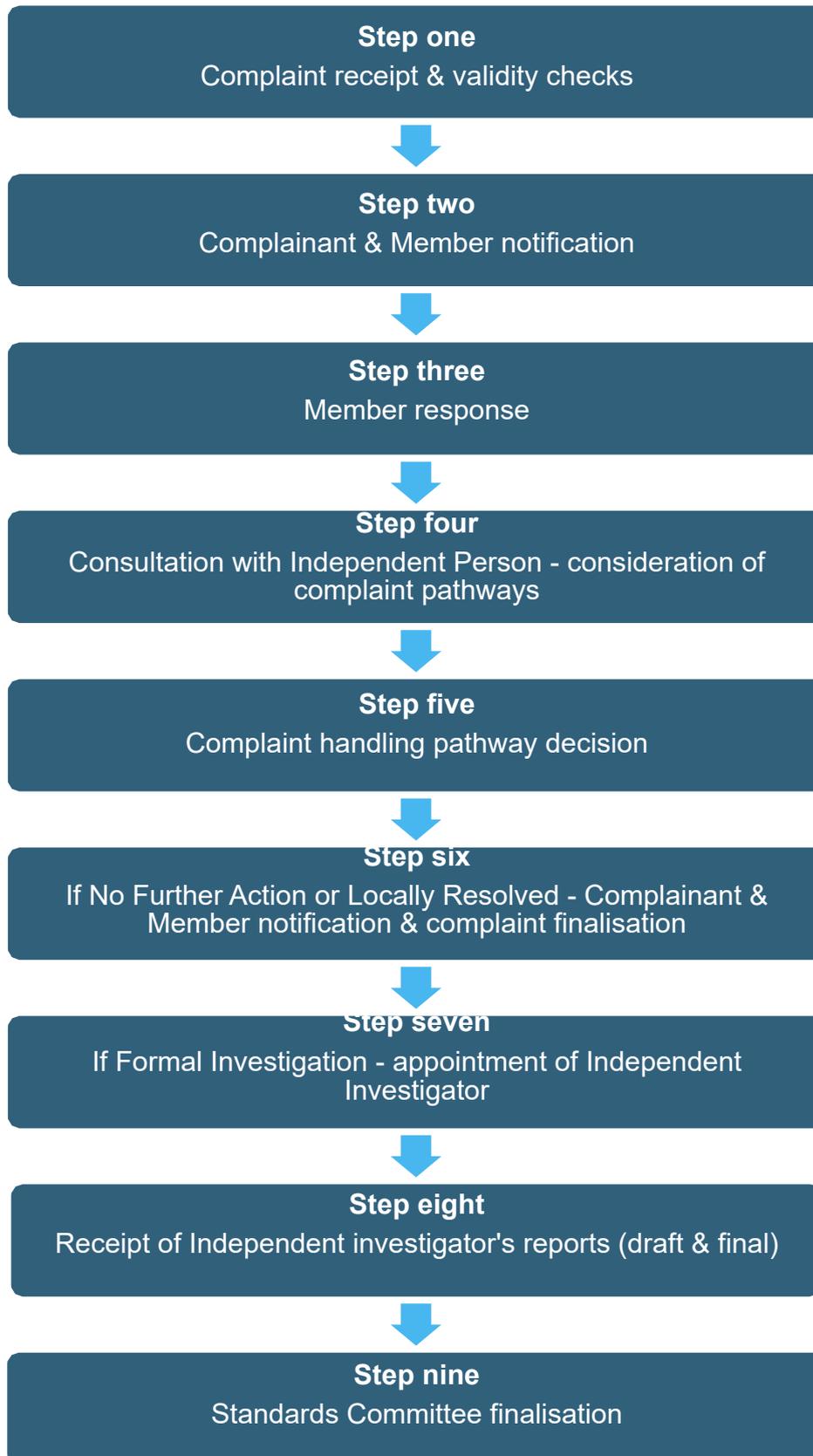


# Complaints Process

For Members *[revised draft v1.3]*



# Notes

## Overview

- The aim of Teignbridge District Council's complaints process for Members, is to provide a fair, transparent, reasonable & proportionate approach to recording & resolving complaints made about Members.
- The intent of the complaints process is to provide the most appropriate resolution at the earliest opportunity, & proportionality should include consideration of public cost against potential outcome.
- In most instances, the process will be followed as a step-by-step. In instances where a variation of the process is required to meet the circumstances of a specific complaint, the variation(s) to process and the associated rationale will be recorded **and the parties involved notified.**
- Any reference to 'in writing' includes email, but does not include any electronic text or messaging services.
- The Council aims to make an initial response to all complaints within 14 days **and regularly thereafter as appropriate to keep the complainant informed**
- The complaints process is owned by the Council's Monitoring Officer.

## Step one – complaint receipt & validity checks

- On receipt of a written complaint/allegation, administrative checks will be made to ensure that complaint is valid & that it meets published submission criteria.
- If it does, the Monitoring Officer will then undertake further validity checks including legal checks & a prima facie assessment as to whether the Code of Conduct applies and **may** have been breached.
- **Receipt of the complaint will be acknowledged within 5 working days.**

## Step two – complaint & member notification

- If the complaint is invalid, or if it is assessed that it is unlikely that the Code of Conduct has been breached, the Monitoring Officer will reply to the complainant in writing to inform them that no further action will be taken with an explanation as to why.
- At this stage, the complaint is finalised. Within the outcome notification, the complainant will be provided information on any appeal process.
- The Monitoring Officer will also notify the subject Member in writing for their information only.
- If the complaint is valid & it is assessed that there **may** be a breach of the Code of Conduct, the Monitoring Officer will inform the subject Member in writing of the details of the complaint, including those of the complainant (unless confidentiality has been agreed). The Member will be asked to respond in writing.
- **The Monitoring Officer will write to the Complainant to confirm that the complaint is being taken forward.**

## Step three – Member response

- Within 14 days of complaint notification, the subject Member of the complaint will either:
  - o Respond in writing to the Monitoring Officer, with documentation as appropriate, or
  - o Confirm to the Monitoring Officer that they do not wish to provide a written response to the complaint.

#### Step four – consultation with independent person & consideration of complaint pathway

- After receipt of the Member's response, the Monitoring Officer will consider the information **along with such as any Human Rights and or other material aspects**, & consult with the Independent Person to help inform the decision about which complaint handling pathway is most appropriate. A record of the consultation will be kept on file.
- The three complaint handling pathways are:
  - No Further Action (NFA)
  - Local Resolution (LR)
  - Formal Investigation (FI)

#### Step five – complaint handling pathway decision

- After consultation with the Independent Person, the Monitoring Officer will decide which complaint handling pathway is the most appropriate.
- Should the Monitoring Officer assess that the complaint **may** include criminal activity, the Monitoring Officer will consider a referral to the police or other external authority as appropriate.
- If it is assessed that such a referral is appropriate, the Monitoring Officer will **brief** the Chair of the Standards Committee prior to the referral, unless urgent.
- It should be highlighted that the complaint handling decision is a prima facie one, and the choice of pathway does not indicate any presumption that the matter will be found proven, or otherwise.
- **In the event that the complaint or aspects of it are referred to the Police for investigation the Monitoring Officer may adjourn this process. In that instance the Complainant will be advised.**

#### Step six – no further action or local resolution

- Where it is decided that No Further Action is required, the Monitoring Officer will notify both the Complainant & the subject Member of the outcome in writing.
- At this stage, the complaint is finalised. Within the outcome notification, the complainant will be provided information on any appeal process.
- Where it is decided that Local Resolution is the most appropriate complaint handling pathway, the Monitoring Officer will manage this, working with Group Leaders where appropriate.
- At the conclusion of the Local Resolution process, the Monitoring Officer will notify both the Complainant & the subject Member of the outcome in writing.
- At this stage, the complaint is finalised. Within the outcome notification, the complainant will be provided information on any appeal process.

#### Step seven – formal investigation

- Where the complaint handling pathway decision is Formal Investigation, the Monitoring Officer will **brief** the Chair of the Standards Committee of the decision.
- The Monitoring Officer will then appoint an Independent Investigator **as appropriate and having applied due diligence.**

### **Step eight – receipt of independent investigator’s reports**

- At the conclusion of a Formal Investigation, the independent investigator will submit a draft report to the Monitoring Officer.
- The Monitoring Officer will send the draft report to the subject Member and complainant for the Member to review and respond as appropriate. The Member should respond to the Monitoring Officer in writing within 14 days.
- The Monitoring Officer will also send a copy of the draft report to the independent person, for information only. No response from the independent person is required.
- Following response from the member, the Monitoring Officer will send the Member’s response plus any other comments back to the independent investigator in writing. The Investigating Officer will then produce a final report.
- The independent investigator’s final report will be submitted to the Monitoring Officer.

### **Step nine – standards committee finalisation**

- The Monitoring Officer will submit the final report, to the Standards Committee with recommendations and/or comments, for consideration and action, and sanction(s) if appropriate.
- At the complaint’s conclusion, the Monitoring Officer will inform/confirm both the complainant & the subject Member of the outcome in writing.
- The Monitoring Officer will also inform the independent person, for information only.
- Within the outcome notification, the complainant will be provided information on any appeal process.

### **Appeals process**

- At the conclusion of the complaint (at steps 2, 6 or 9), the Monitoring Officer will inform the complainant & Member of the outcome in writing. That notification will include information regarding the appeals process.
- This information should include:
  - o That any appeal must be received in writing within 14 days of the complaint outcome notification being made
  - o That to be valid, any appeal must specify the reasons for the appeal, together with the desired outcome of the appeal
  - o That any appeal should be addressed to the Monitoring Officer. In cases where the Monitoring Officer is subject of the complaint, an appropriate alternative person will be named
- On receipt of an appeal, the Monitoring Officer will:
  - o Consider the matter
  - o Consult with a further independent person unconnected with the original complaint
  - o Respond in writing to the complainant within 28 days, providing either an outcome to the appeal, or detailing what further action will be taken.