

COUNCILLOR CONDUCT COMMITTEE

18 SEPTEMBER 2012

CRITERIA AND PROCEDURE FOR DEALING WITH COUNCILLOR CONDUCT COMPLAINTS

Report from/Author: Perry Holmes, Monitoring Officer

Summary

This report proposes a set of criteria for use in considering complaints and summarises the process for receiving and resolving or investigating complaints about the conduct of a Councillor. It also proposes some additional considerations to enable the efficient and effective consideration of complaints.

1. Budget and Policy Framework

1.1 Full Council approved the new Code of Conduct on 26th July 2012 and terms of reference for the Councillor Conduct Committee. A draft process was presented to Council. It is for this Committee to consider how to implement the procedure and when and how to amend it and what criteria to use.

2. Background

2.1 The Council has approved a light touch Code of Conduct with a heavy emphasis on seeking a local informal resolution wherever possible to any complaints about the conduct of a councillor. This reflects the very limited sanctions that can be imposed under this new conduct regime. It also reflects the wish to use sparse council resources carefully and only investigate the most serious of cases that cannot be otherwise resolved.

3. Criteria for dealing with councillor conduct complaints

3.1 Attached at Appendix 1 is a set of criteria for use by members when considering how to deal with councillor conduct complaints.

3.2 Members have made it clear that they wish to keep the number of complaints received to a minimum and to only investigate the most serious of cases where this is justified.

- 3.3 The criteria are based on the draft process that was approved at Council which is attached as Appendix 2. Two amendments are proposed and are included in the process as tracked changes for Members' consideration.

4. Procedure for dealing with councillor conduct complaints

- 4.1 The Monitoring Officer in consultation with colleagues has reviewed the process and proposes that two additional features would assist members:

4.1.1 Firstly where a complaint is more than six months old but less than twelve months, Members could apply a reasonableness test. In other words where there is, for example, documentary evidence available for a complaint it might be reasonable to accept a complaint after six months. If that were not the case, then given the passage of time, members might be disinclined to accept a complaint on the basis that the delay would have a prejudicial effect on the Councillor concerned. This would also put an emphasis on complaints being lodged as soon as possible after the alleged conduct.

4.1.2 Secondly there may be circumstances where although it is possible to resolve a complaint through investigation, where none of the informal resolution options apply, it may be disproportionate to investigate. In other words the matter might be trivial or a minor technical breach of the Code. In those circumstances this additional criteria would give Members some flexibility.

5. Annual review of the criteria and process

- 5.1 This committee is responsible for reviewing the application of the Code and it is suggested that the criteria and the process are also reviewed after a year to see whether they remain fit for purpose.

6. Financial Implications

- 6.1 This report contains no specific financial implications, as any training will be provided from within existing budgets.

7. Legal Implications

- 7.1 These are contained in the body of the report.

8. Recommendation

- 8.1 The Committee is requested to consider and approve the criteria for dealing with councillor conduct complaints as set out at Appendix 1.

8.2 The committee is requested to consider and approve the amendments to the process for dealing with councillor conduct complaints, as set out at Appendix 2.

Lead officer contact:

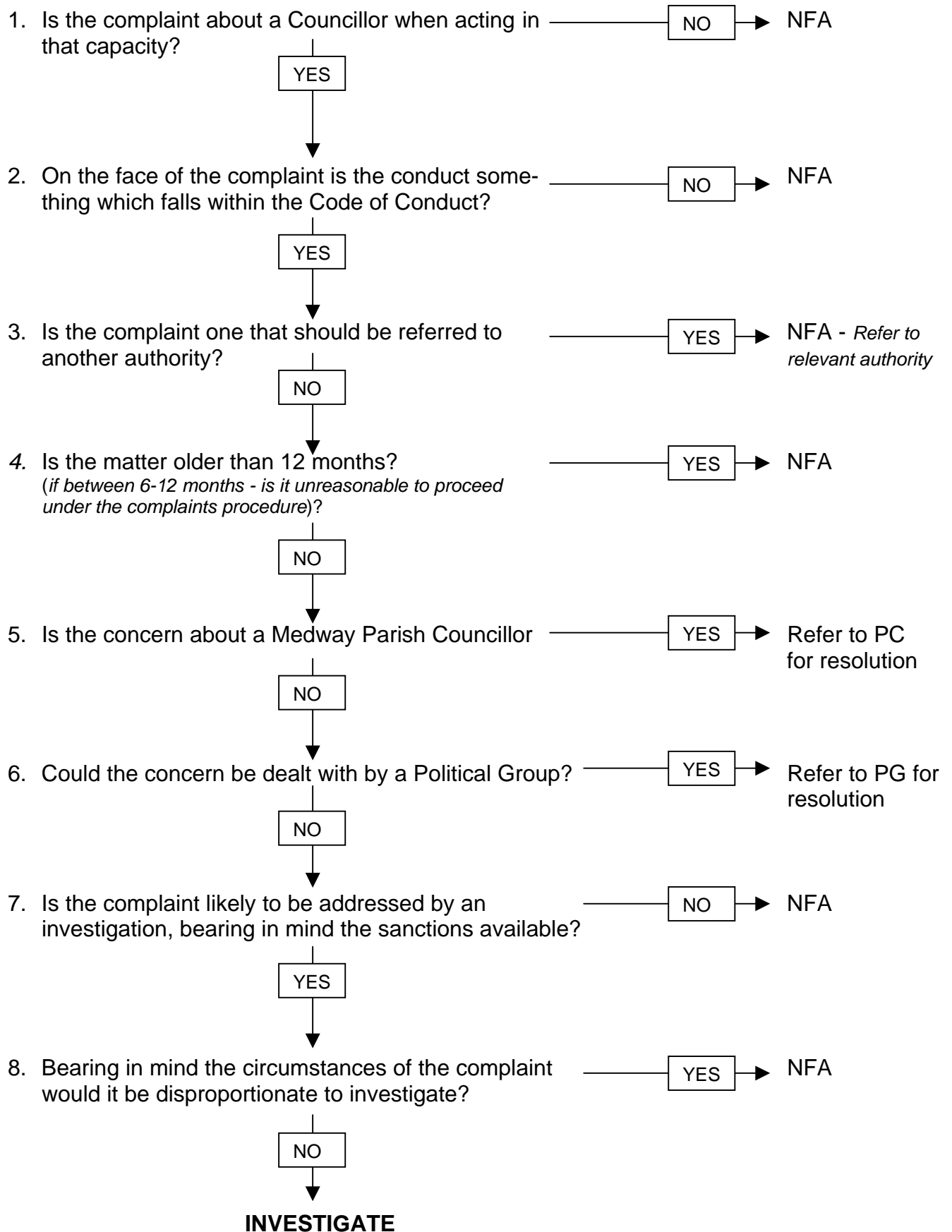
Perry Holmes
Monitoring Officer
Telephone: 01634 332133
Email: perry.holmes@medway.gov.uk

Background Papers:

None

This page is intentionally left blank

ASSESSMENT CRITERIA



NFA – No further action

This page is intentionally left blank

Medway Council procedure for dealing with Councillor Conduct complaints under the Localism Act 2011

Introduction

Medway Council is committed to high standards of behaviour and conduct by Councillors who are visible community leaders. The Councillor Conduct Committee will promote high standards of behaviour and consider any concerns raised about councillor conduct.

Medway Council [and the 11 Parish Councils] has adopted a Code of Conduct that is based on the seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Localism Act 2011 has amended the way that Councils can deal with any concerns that are raised about the conduct of Councillors. These arrangements are how concerns about Medway Councillors and Parish Councillors will be dealt with from [1 July 2011].

Presumptions

- There will be an overriding presumption that complaints should be settled quickly, efficiently and informally and in a way that represents value for money and takes into account the limited action that can be taken against a Councillor.
- There will be a working assumption that details of the allegations made against a Councillor should not be made public until the end of the process and only if there is an investigation (subject to the rules on access to information).
- There will be a working assumption that if a complainant makes an allegation public before it is concluded that may bring an end to the process since that publicity would be similar in gravity to the most serious action the Council could ultimately take of censure.
- There will be a presumption that any investigations will be completed quickly and where possible by correspondence.
- There will be recognition from the outset of any complaint that the action that can be recommended at the end of any process must be proportionate to the need to ensure effective administration of the Council, the welfare of its staff or the reputation of the Council.
- There will be a presumption that where a complaint is capable of resolution by a Political Group or Groups these will be referred for such resolution to the Leader and Whip of such Group or Groups.

- There will be a presumption that any resolution decision by the Groups or Groups is final and cannot of itself give rise to a complaint except to the Local Government Ombudsman.
- There will be a presumption that where a complaint involves a Parish Councillor, that this will be referred to the Parish Council concerned for resolution.

Making a complaint

In the first instance if you have a concern about a Councillor arising out of their role as a councillor as opposed to their private life, you are expected to discuss your concerns with the Monitoring Officer at Medway Council by telephone on 01634 332133. The Monitoring Officer is a senior officer with a legal background. They will discuss your concern and may suggest an alternative resolution to a formal complaint.

If you wish to make a complaint you can write to the Monitoring Officer or send an email to:

Monitoring Officer
Medway Council
Gun Wharf
Dock Road
Chatham
ME4 4TR
perry.holmes@lmedway.gov.uk

We would like you to use the attached form so that we have all the relevant information. Anonymous complaints will not normally be considered.

You can expect:

- An acknowledgement of your complaint within 5 working days from the Monitoring Officer.
- That the Monitoring Officer will inform the subject Councillor that a complaint has been received (unless to do so would prevent proper consideration of the complaint)
- That you will be kept informed about the progress of your complaint.

The Process

The process we will follow is set out below and is also illustrated by the attached diagram.

There are four main stages to our process; Assessment, Investigation Independent Review & Conclusion. At each stage we will be looking to quickly and informally resolve your concern.

In the **Assessment** stage we will decide against the following criteria and based on the presumptions above whether we will investigate your concern or seek to resolve it in another way:

- Is the complaint about a councillor when they were acting in that capacity?
- Is the complaint actually one that should be referred to another agency to investigate?
- Is the concern capable of being dealt with by a Political Group/s?
- Is the concern raised about a Parish Councillor?
- Is the matter too old (over 12 months ago or between 6 and 12 months ago and it is unreasonable to investigate bearing in mind all the circumstances)?
- Is the concern better dealt with by some other process or body?
- In all the circumstances bearing in mind what action can be recommended, is this concern likely to be addressed by an investigation?
- In all the circumstances would it be disproportionate to investigate?

We could decide to take no action, suggest an informal resolution or send your complaint for investigation.

In the **Investigation** stage we will seek to get more information about your concern and then put the information we have into a report. We will put the emphasis on speedy investigations completed remotely through correspondence to speed up the process and provide better value for money. If a complaint is withdrawn at any stage we will discontinue the process including any investigation.

In the **Independent Review** stage we will present all the information to an Independent Person who has no links to the Council to seek their opinion on how to proceed. We have to take their opinion into account.

In the **Conclusion** Stage the investigation report and the Independent Person's opinion will be presented to a Committee of Councillors. This may be a paper process or you may have to attend to be asked questions. A decision will be made how to resolve the complaint. You will be notified of the outcome.