

# **Complaints to the Council's Standards Committee**

## **Guidelines and Toolkit for Media and Reputation Management**

<b>Responsible Section/Team</b>	Communications	<b>Version</b>	1.4
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## **Section 1 - Overview**

### **1.1 Purpose**

Following the Local Government and Public Involvement in Health Act 2007 the responsibility for handling complaints about the conduct of Councillors has moved from the national to the local level and Standards for England no longer receives complaints, although they may still assist in the investigation of complaints.

With responsibility passing to the local level it is important that the Council has effective processes in place to respond to complaints in a fair and robust way. Details of how the Standards committee works and what it does are set out in Appendix A.

Moreover, it is important to instil public confidence in the fairness and impartiality of the complaints system whilst providing reassurance about the steps that the Council takes to discourage and stop misconduct taking place.

When a serious Standards complaint is made, the nature of the complaint will inevitably, in the eyes of some members of the public, reflect badly on other councillors and the Council as a whole and it is important to consider how the reputation of the Council can best be managed.

By putting in place clear media guidelines to proactively manage standards issues through the media we will be able to build public trust, treat those being investigated fairly and enhance the Council's reputation.

### **1.2 Guiding Principles**

To help provide an underlying context within which to handle media enquiries about Standards issues it is necessary to establish a number of guiding principles which are applied throughout these guidelines. These are:

- To demonstrate unequivocally that the Council holds its members to the highest possible standards of behaviour and conduct.
- To provide public reassurance that all complaints are considered carefully and thoroughly and that the Council responds to complaints about the conduct of Councillors in a positive and challenging way
- To demonstrate that where it is appropriate to do so the Standards Committee will use its powers to punish those who do not uphold the high standards of behaviour that the Council expects.
- To build confidence amongst Councillors that if any complaint is made against them we will respond in a way that respects their rights and will allow a standards investigation and hearing to take place in a fair and unbiased way.
- Through effective media relations to ensure that complaints about councillors are handled in a way which enables the media and the wider public to understand the wider context about standards issues and to reassure them that serious complaints are very rare.

- To respond to media enquiries in a way which will demonstrate the Council's commitment to these underlying principles and will convince people that that the system for dealing with complaints is robust, rigorous, and fair.

### **1.3 Reputation Management Issues**

Whilst the reputation of the Council is an important consideration, it should not be an overriding consideration. The integrity of the complaints process should not be compromised at any stage.

There are a range of issues that could be referred to the Council's Standard Committee for investigation. These would include:

- Theft
- Fraud
- Declarations of Interest
- Prejudicial Interests
- Violent behaviour
- Accepting Bribes or Gifts in Kind
- Offering Bribes or Gifts in Kind to other Councillors or on behalf of a third party
- Inappropriate or offensive remarks, particularly about people's race, sexuality, gender or disability
- Making unsubstantiated remarks or allegations against another councillor or about council staff
- Conviction for a serious crime

With complaints such as these there are a number of issues and questions that will inevitably be raised such as:

- Why did it happen?
- Could it happen again?
- Who is to blame?
- Are your systems and checks and balances strong enough?
- What are you doing to stop it happening again?
- Does this mean all Councillors behave in the same way?

By anticipating these we are better able to respond robustly and manage the Council's reputation. Some useful questions and answers in the following section will help to deal with media enquiries in a way that is fair to all involved in a Standards complaint or investigation.

In the long run, the Council will enhance its reputation by being seen to handle complaints about standards issues in a transparent and robust way.

## Section 2 - General Policy and Guidance on handling Media Enquiries

This section outlines our general policy for handling media enquiries at each stage of a Standards complaint or investigation and highlights a number of important issues about what it is appropriate and not appropriate for the Council to say.

This section should be used in conjunction with the flow chart process show in Figure 1 on the next page.

### 2.1 Press enquiries when a complaint has been made

Our policy is to notify all parties involved in the complaint by letter. No comment will be made to the media.

### 2.2 Press enquiries during the investigation

#### We will not:

- Confirm who has made the complaint, what the complaint is about or who the complaint is about.
- Comment on the progress of the investigation or any information that comes to light during the investigation.
- Speculate on when any investigation may be complete or when a draft report will be issued.

#### We will:

- Give **generic** information about investigations generally and what they can entail.
- Explain what the possible outcomes of investigations can be, in **general** terms.

### 2.3 If a confidential report is leaked to the press

We will not comment on the content of any leaked reports.

We will provide reassurance that the investigation has been carried out thoroughly and fairly throughout and to a high standard, that all parties involved have been treated fairly and that regardless of the contents of the report, only a Standards Hearing can make a decision about whether the complaint should be upheld or not.

### 2.4 During the hearing

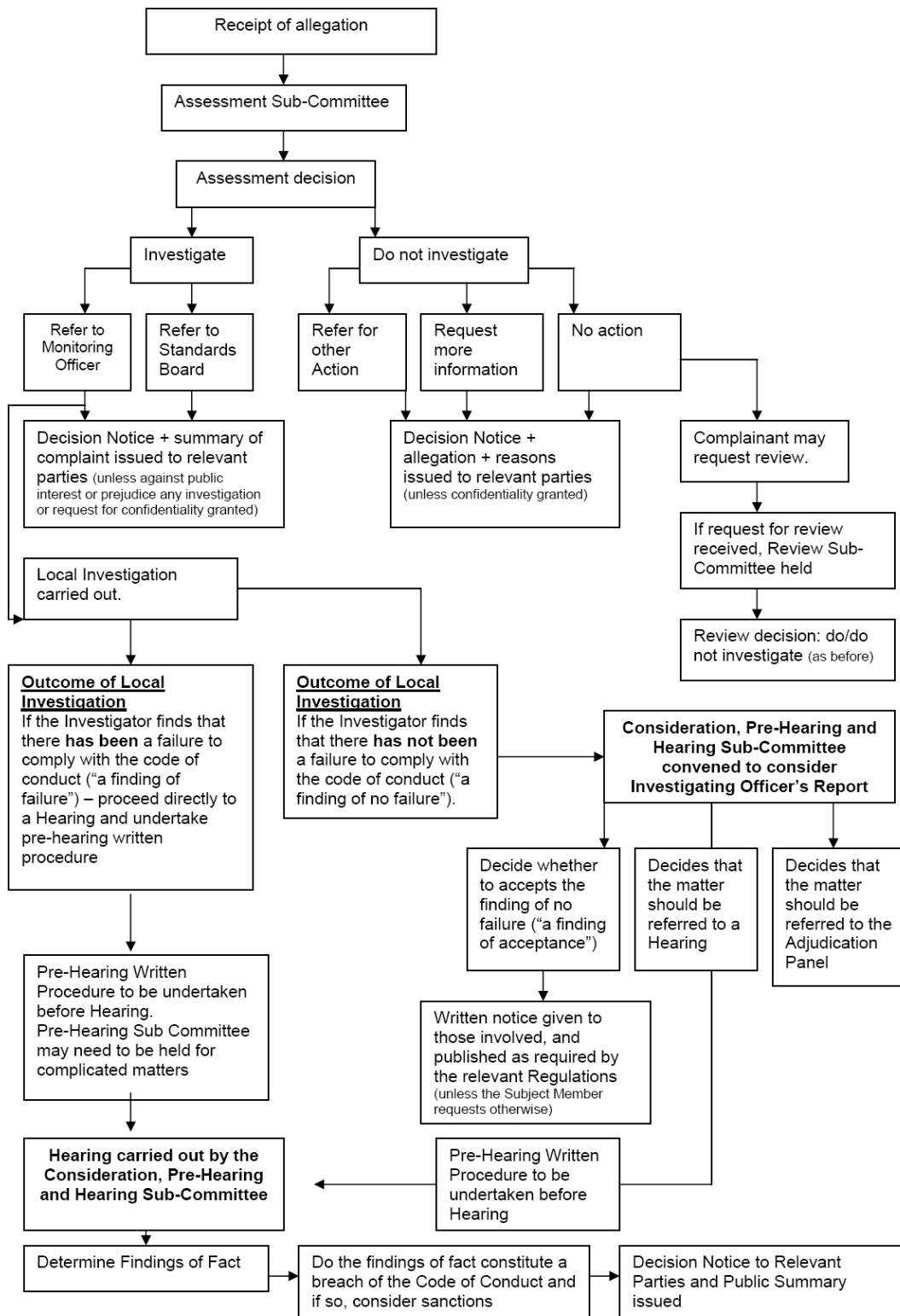
Standards committee hearings are public meetings unless there are good reasons for them to be held privately and until such time as a resolution is passed

*under Section 100 (A)(4) of the Local Government Act 1972 to exclude the press and public since it involves the likely disclosure of exempt information under Paragraph 1 of Schedule 12A of the Act.*

The committee or hearing panel will need to consider a number of factors in making this determination, particularly whether having the hearing in public would jeopardise the process of a fair hearing or would breach the rights of witnesses or council staff.

All journalists attending a hearing will be sent details of the Council's process for investigating standards issues and the powers available to the Standards Committee/Standards Hearing. We may ask them to attend a press briefing either before or after any Standards Hearing and will ask them to write a fair and accurate story.

**Figure 1 – The process for handling standards complaints**



## **2.5 When Standards sub-committee has reached a decision**

We have a statutory duty to publicise the outcome of a case – usually through a public notice in a local paper. The only exception will be if a Member who has been found not to have breached the Code asks for a notice not to be published.

Reports will be published only if the privacy of the people named in the report but not directly involved – such as Members' business associates, friends or relatives can be protected.

A case summary of up to about 500 words will normally be produced for the benefit of the media.

If a Councillor has been suspended we will notify all staff and the local media about what this means and request that they use the term 'Councillor XXXXXX (Suspended)' in any news reports published during the time the Councillor is suspended.

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## Section 3 - Toolkit

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#### 3.1.5 The Code of Conduct

- (a) What is the Code of Conduct?
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- (f) Under the Code of Conduct, do members have to declare their membership of the Freemasons?
- (g) What does it mean when you say you're taking alternative action?



### **3.1.1 The Standards Committee**

#### **(a) What does the Standards Committee do?**

The Standards Committees has a variety of functions, but its primary role is to oversee, support and promote high ethical standards within the Council. This includes:

- Assessing complaints
- Advising the Council on the Code of Conduct
- Monitoring the effectiveness of the Code
- Training members on the Code, or arranging for such training
- Promoting and maintaining high standards of conduct for members
- Helping members to follow the Code of Conduct
- Making determinations on allegations of breaches of the Code of Conduct.

#### **(b) Who is on the Standards Committee?**

There are 12 members of the Standards Committee, 7 from Rossendale Council, 2 from Whitworth Town Council and 3 independent people (who are not councillors or employees of the Council). The Standards Committees must be chaired by an independent member – currently Mr Andrew Neville.

#### **(c) What powers does the Standards Committee have?**

Following a local investigation or an investigation by an ethical standards officer, a Standards Hearing can, if they determine that a breach of the Code of Conduct has occurred: suspend a member for up to six months; impose training; censure the member; request an apology from the member; or impose a combination of these sanctions.

### **3.1.2 Complaints**

#### **(a) Has a complaint been made against, or is there an investigation into, Councillor John Smith?**

Details of standards investigations are confidential and we will not confirm if an investigation is underway unless there is an overwhelming public interest in doing so. If details of an allegation become widely known during an investigation it may compromise the effectiveness of the investigation and could seriously damage the Member's right to a fair and unbiased consideration of the complaint.

When the investigation is complete the Standards Committee will decide whether or not to refer the case to a Standards Hearing.

Standards committee hearings are public meetings unless there are good reasons for them to be held privately and until such time as a resolution is passed

*under Section 100 (A)(4) of the Local Government Act 1972 to exclude the press and public since it involves the likely disclosure of exempt information under Paragraph 1 of Schedule 12A of the Act.*

The committee or hearing panel will need to consider a number of factors in making this determination, particularly whether having the hearing in public would jeopardise the process of a fair hearing or would breach the rights of witnesses or council staff.

If the outcome of the hearing is that the Member is found to have breached the Council's Code of Conduct this will be made public, however, if the Member is found to have not breached the Code of Conduct they have the right to ask for the details to remain confidential.

Any councillor under investigation will be made aware of the press interest in them and the way the Council has responded.

**(b) Has Betty Jones made a complaint against any members?**

It is not usual practice to confirm the names of complainants.

**(c) Why are you not confirming the name of complainants?**

Disclosing the names of people who make complaints might deter complainants from bringing legitimate concerns to our attention. In addition, by revealing the name of complainants we run the risk of compromising our duty to protect whistleblowers.

This view was supported by a parliamentary select committee looking at the role and effectiveness of the (then) Standards Board in handling complaints.

**(e) Who assesses complaints?**

The Standards Committee assesses complaints and decides if action needs to be taken. The committee can decide either to investigate or recommend an alternative form of action to investigation, such as training or mediation.

**(f) Can you refer some parts of the complaint for investigation, and not others?**

Yes, allegations can be partially referred for investigation.

**(g) Why has a complaint not been passed on for investigation?**

We will provide details of the criteria used to decide which complaints are referred for investigation.

Potential reasons for not referring a complaint for investigation:

- We consider **all** allegations that we receive; however our priority is to focus on those allegations that have the greatest potential to damage the public's confidence in local democracy.
- The allegations, even if proved to be true, would still not amount to a breach of the Code of Conduct, so of course there is no point in us referring them for investigation.
- The nature of the complaint is such that we could not justify spending taxpayers' money on investigating a relatively minor incident.
- The Standards Committee has considered the complaint carefully and has chosen [another form of action] as an alternative to an investigation. This is because there are wider issues involved which may not be usefully resolved by taking action against an individual member.

**(h) Is the complaint politically motivated?**

We discourage councillors from making tit-for-tat allegations and we vigorously weed out malicious or vexatious complaints. We will not tolerate abuse of the system for personal or political gain.

### **3.1.3 Investigations**

#### **(a) Who carries out the investigation?**

Our Monitoring Officer oversees the conduct of any investigation drawing on support, expertise and advice from other Council staff. In exceptional circumstances we may bring in an external investigator or refer the issue to Standards for England for investigation by an ethical standards officer. In cases like this, the press should contact Standards for England on **0161 817 5400**.

After an investigation, the Monitoring Officer will set out their findings on the case in a final report. The report will contain information like evidence, findings of fact, and reasons for their decision on whether there has been a breach of the Code of Conduct or not. The report is then referred to a Standards Hearing Panel. The Hearing Panel are the only people who can reach a legal determination as to whether there has been a breach of the Code and impose a sanction if appropriate.

#### **(b) What happens during an investigation?**

The investigator will establish the facts of the case through a variety of methods depending on the case. This is likely to include gathering relevant documents and interviewing those involved, including the subject of the complaint, the complainant and any witnesses.

#### **(c) How much will the investigation cost the taxpayer?**

The costs of investigations can vary depending on their complexity. For specific investigations we will ask the journalist to submit a Freedom of Information request.

#### **(d) When do investigations get passed to Standards for England instead?**

If an ethical standards officer of Standards for England, rather than an authority, carries out an investigation, it may be because:

- A local investigation could reasonably be perceived as biased or unfair
- There are relevant local political issues that might have a bearing on a local investigation
- There is a conflict of interest (the complaint was made by, for example, the monitoring officer or chief executive)
- The Monitoring Officer is being obstructed in their investigation and cannot complete it

#### **(e) Can you confirm whether a draft report has been issued?**

We will not comment on whether a draft report has been issued. This is because it does not necessarily indicate that an investigation is drawing to a close and because comments received from relevant parties may lead to changes in the final report.

### **3.1.4 The outcome of an investigation**

#### **(a) Will you publish the outcome of the investigation?**

We have a statutory duty to publish the outcomes of standards committee hearings in which the committee finds a member to have breached the Code. This is done in the form of a public notice and details published on the Council's website.

When a Councillor is found not to have breached the Code, they can ask the authority not to publish a public notice of this outcome, if they wish.

The outcomes of all cases that Standards for England investigates are published on its website for a limited time in summary form, except where there may be exceptional circumstances and a case summary would be inappropriate, for example in the event of the death of the person being investigated.

**(b) Was the investigation fair and thorough?**

The investigation was carried out under the supervision of the Council's Monitoring Officer and conducted following very strict guidelines set down by the Standards for England. These ensure that the investigation is both fair and thorough. The Monitoring Officer's findings were presented to the Standards Committee who reached a decision in a fair and unbiased way under the direction of the independent chair of the committee. We are confident that the investigation was fair and thorough.

**(c) Was the punishment too harsh/lenient?**

No. A through investigation of all of the facts took place and this was presented to the Standards Hearing who reached a decision about what had taken place and how serious it was. Standards Hearings are conducted in a fair and thorough way and take all the facts into consideration. The sanctions that are decided are consistent with the seriousness of the breach of standards.

**(d) Who is to blame for this?**

The Council is very clear that it expects high standards of behaviour from all of its councillors. The only person who should take responsibility for what has happened is the councillor whose behaviour has fallen short of what is expected. Undoubtedly there are things that can be improved and it is our intention to make sure that lessons are learned.

**(e) What are you doing to stop it happening again?**

It is regrettable that the standard of behaviour of Cllr XXXXXXXX fell short of the high standards we expect in Rossendale. The Standards Committee have an important role to play in examining whether any changes in council policy or procedures are required in light of what has happened. We are confident that they will do a through job and any recommendation they make will be seriously considered.

**(f) Does this mean all Councillors behave in the same way?**

No. The conduct of councillors in Rossendale is very good and as a council we are very proactive in promoting high ethical standards. We believe that this is an isolated incident and the measures we have in place to identify and investigate breaches of the Code of Conduct have worked well.

### **3.1.5 The Code of Conduct**

**(a) What is the Code of Conduct?**

The Code of Conduct sets out the rules governing the ethical behaviour of councillors.

All elected and co-opted members sign up to the Code of Conduct when they take office. The Code was approved by Parliament and last reviewed in May 2007. You can find it online at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk) The Code of Conduct covers areas relating to individual behaviour such as treating others with respect, declaring interests and members not abusing their position.

**(b) Does the Code of Conduct cover members' allowances?**

The Code does not explicitly address members' allowances, but it does prohibit members from misusing authority resources for political purposes. It is the responsibility of individual members to manage their allowance.

**(c) Can a person with a criminal conviction stand for office?**

Section 80 of the Local Government Act 1972 sets out the type of people who Parliament has determined are disqualified from standing for office or holding office as a member of a local authority. Section 80 says that, amongst others, the following types of people are disqualified:

"Those who, within the last five years, have been convicted in the United Kingdom, Channel Islands or Isle of Man of any offence and have received an imprisonment sentence of more than 3 months (without the option of a fine)." If a serving member is convicted and sentenced to imprisonment for three or more months, they are automatically disqualified from office for five years.

**(d) If a councillor becomes bankrupt can they still serve as a councillor under the Code of Conduct?**

This does not fall within the remit of the Code.

However, under Section 80(1) (b) of the Local Government Act 1972, a person shall be disqualified from being elected or being a member of a local authority "if he/she has been adjudged bankrupt".

**(e) Does the Code cover predetermination?**

No. Not as such. The issue of predetermination is a matter of English common law. Standards for England has published an occasional paper to help clarify the issues of predetermination and bias at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk)

**(f) Under the Code of Conduct, do members have to declare their membership of the Freemasons?**

Some Masonic organisations are registered charities with the Charity Commission, and membership of these organisations must be declared.

However, the Code requires members to declare membership of any body "directed to charitable purposes" and therefore covers a broader spectrum of groups with charitable purposes.

Standards for England believe that many Masonic organisations fall within the scope of this part of the Code and therefore should be declared.

**(g) What does it mean when you say you're taking alternative action?**

The Standards Committee may consider that an investigation is not the most effective way of dealing with a complaint. The Committee may make this decision when it first receives the complaint, or when information revealed during an investigation suggests that it would not be useful or appropriate for it to continue.

Opting for action other than an investigation is a positive, proactive way of dealing with less serious matters. It can be used to address issues which are part of a wider problem that could not be reasonably resolved by investigating an individual member or members. For example if many members are routinely failing to comply with a certain part of the Code, the Standards Committee can require that all members receive Code of Conduct training to clarify their obligations. Or, if allegations stem from a wider breakdown in relationships within the Council, alternative action might take the form of mediation between the parties to help improve the situation.

It may also mean that council officers have given councillors inaccurate advice or that financial or administrative procedures in general appear to need to be improved.

When the Standards Committee recommends another form of action as an alternative to investigation, it has not made any finding on whether the member has breached the Code of Conduct or not.

**3.2 Factsheets/further information**

Standards for England produce a number of very helpful factsheets on the following subjects which are available on request.

- (a) Bullying
- (b) Confidential Information
- (c) Ethical Framework
- (d) Gifts and Hospitality
- (e) Lobby Groups
- (f) Personal and Prejudicial Interests

### 3.3 Sample Press Releases

#### (a) Suspension sanction

##### **Three-month suspension for Anyshire councillor**

A Rossendale Councillor was suspended for [insert number] weeks/months \* today after a Standards Hearing found that s/he had breached the members' Code of Conduct.

A council investigation revealed that [insert brief details of Code breaches].

[Use next paragraphs to outline brief details of case and if necessary, why the conduct revealed by the investigation was in breach of the Code]

As well as being given a [insert time period here] suspension/disqualification\*, Councillor [name] was also ordered to [insert any other sanctions here, for example training or an apology].

??????????, Independent Chair of the Standards Committee said:

"It is important to Rossendale Council that its members maintain the high ethical standards that the public expects. By suspending Councillor [insert name here] for [insert time period here] we hope to show both members and the electorate that we take such matters seriously.

"It is thankfully rare that we have to take action against a councillor, but when a councillor's conduct does fall short of our expectations we take the matter seriously. Nothing less than [insert sanction] would have been appropriate in this case.

By [insert breach here] Councillor [insert name here] failed to act with the honesty and integrity that the public have every right to expect from their local representatives. This was a breach of the trust the electorate had placed in her/him, and the [sanction] reflects the seriousness of his/her conduct."

## **APPENDIX A – THE STANDARDS COMMITTEE AND WHAT IT DOES**

### **What is the Standards Committee?**

Under section 53 of the Local Government Act 2000, every Council must set up a Standards Committee. The statutory functions of the Standards Committee include promoting and maintaining high standards of conduct for members, giving the Council advice on adopting a Local Code of Conduct, monitoring the effectiveness of the Code and training Members on the Code.

### **What does the Committee do?**

The work of the Committee is set out in its Terms of Reference in the Council's Constitution. These include:

- Promoting and maintaining high standards of conduct by councillors and co-opted members.
- Assisting Councillors and co-opted members to observe the Members Code of Conduct.
- Advising the Council on the adoption or revision of the Members Code of Conduct
- Monitoring the operation of the Members Code of Conduct.
- Advising training or arranging to train Councillors and co-opted members on matters relating to the Members Code of Conduct
- Granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members Code of Conduct.
- Dealing with any reports from the case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer.
- Monitor the Constitution and make recommendations to Council in respect of any proposed amendments.
- Monitor the whistle blowing policy.
- Monitor the Council's Corporate Governance arrangements.
- To appoint a sub committee to hear and determine the outcome of local determinations and investigations.
- Other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act as set out in Section 9.

### **Members' Code of Conduct Complaints Process**

The Standards Committee deals with complaints about the behaviour of Rossendale Councillors and Whitworth Town Councillors. The Council has a Code of Conduct governing the behaviour of Councillors and can only deal with complaints covered by the Code. Any complaints to the committee it must be about why someone thinks that a councillor has not followed the Code of Conduct.

All complaints alleging that members have breached the Code of Conduct must be made to the Standards Committee who will decide whether any action should be taken and, if so, what. Complaints should be sent to:

The Standards Committee  
c/o Mr Stuart Sugarman  
Monitoring Officer  
Rossendale Borough Council  
PO Box 74  
Bacup  
OL13 0WU



## **Membership**

The Standards Committee at Rossendale comprises:

- Seven Councillors, who are not members of the Cabinet.
- Three independent persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (Independent Members); Independent Members are entitled to vote at meetings.
- Two Members of Whitworth Town Council who must be present when matters relating to Whitworth Town Council or their Members are being considered. The Town Council Member will be entitled to vote at meetings.

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