

Criteria for Considering Complaints Alleging Breaches of the Code of Conduct

Complaints about a potential breach of the Code of Conduct are made to the Monitoring Officer who will arrange for the complaint to be reviewed to consider whether the complaint, if proven, would amount to a breach of the Code of Conduct and if so whether it should be referred for formal investigation.

When will the Code of Conduct Apply.

The first stage is to establish whether or not the Code applies.

Members are entitled to privacy in their personal lives and the majority of the provisions of the Code of Conduct will only apply to Members when acting in an official capacity.

A Member will be acting in an official capacity when they are conducting the business of the Council or acting, claiming to act or giving the impression that they are acting in an official capacity as a member or representative of the Council.

If a Member uses Council resources or their position as a Councillor for personal advantage or to disadvantage another, or makes use of anything available to them as a Member of the Council which would not ordinarily be available to a member of the public, the Code of Conduct will apply at all times.

Unless a Member refers to themselves as a Councillor, uses a Council e-mail address or it is clear they are acting in an official capacity then activity on social media will not be covered by the Code of Conduct as it does not apply to personal social media activity.

If it is established the code Applies

If the Code of Conduct applies then the next stage is to consider whether or not the activity complained of amounts to a breach of the Code of Conduct.

Where it is clear that the complaint is about a Council service or decision which the councillor is not responsible for, the presumption will be that they will not be investigated.

If it is considered that there isn't a breach of the Code of Conduct, or if it is considered unlikely that the Standards Committee would determine that there is a breach, no further action will be taken.

If it is considered that the matter complained of is more likely than not a breach of the Code of Conduct consideration will be given as to whether it is appropriate to undertake a full investigation and /or refer to the Standards Committee.

The Public interest test

Public interest factors which will be taken into account include:

- The seriousness of the breach
- Whether the member deliberately sought personal gain for themselves or another person at the public expense
- Whether the circumstances of the breach are such that a Member has misused a position of trust or authority and caused harm to a person
- Whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity.
- Whether there is evidence of previous similar behaviour on the part of the member
- Whether the investigation or referral to the Standards Committee is required to maintain public confidence in elected members in Bromley
- Whether an investigation or referral to the Standards Committee is a proportionate response, namely, 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 or hearing by the Standards Committee would be regarded as excessive when weighed against any likely sanction.

The Monitoring Officer will consult with the Independent Person before reaching a conclusion on whether or not it is in the Public interest to undertake a formal investigation or refer a matter to the Standards Committee.