comhairle chontae na mí
meath county council

PROTOCOL FOR DEALING WITH COMPLAINTS MADE AGAINST ELECTED MEMBERS OF MEATH COUNTY COUNCIL

Policies & Procedures

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PROTOCOL FOR DEALING WITH COMPLAINTS MADE AGAINST ELECTED MEMBERS OF MEATH COUNTY COUNCIL

This protocol is written having regard to the Code of Conduct for Councillors published by the Department of Housing, Planning and Local Government, and the Local Government Act 2001, as amended by the Local Government Reform Act 2014, with specific reference to Part 15 Ethical Framework for the Local Government Service.

This protocol is only intended to deal with complaints of contravention of the Code of Conduct of Councilors. Complaints which are considered to come under other policies and procedures will be dealt with in accordance with those policies and procedures e.g. Dignity at Work Policy and Procedures.

1.0 Introduction

The Code of Conduct for Councillors sets out principles and standards of conduct, respect, dignity, equality and integrity for Councillors, in performing their functions and in their relationship with each other, Council employees and with the public. The code is intended to inform the public; of the conduct it is entitled to expect from its elected representatives and uphold public confidence in local government.

2.0 Complaints

There may be an occasion when a person considers that the standards set out in the Code may not have been achieved and Meath County Council has put in place a process under which complaints about a Councillor's conduct can be examined or investigated and under which decisions on complaints about a Councillor's conduct can be made.

2.1 Complaints submitted about the conduct of Councillors of Meath County Council should be made in writing and addressed to the Ethics Registrar of Meath County Council or can be emailed to ethicsregistrar@meathcoco.ie

2.2 Complaint forms are available from Meath County Council and can be posted or emailed on request.

2.3 A complaint, of any alleged contravention of the Code of Conduct of Councillors, should detail:

a) Complainant's name, address and contact details.

b) The name of the Councillor – Who the complaint is about.

c) Details of the alleged misconduct or breach of the Code of Conduct for Councillors, including where possible, dates, witness details and other supporting or relevant information.

2.4 If any of the following are clear from the complaint the allegation may not be considered further:

a) The Councillor, the subject of the complaint, is not a Member of the Local Authority in question, at the time the alleged breach of code of conduct occurred.

b) Where the alleged breach of code of conduct is a continuation of a situation / set of circumstances currently under consideration by the Ethics Registrar.

c) Where the specific alleged breach of code of conduct was previously considered.

d) An anonymous complaint may, be investigated if it relates to a particularly serious or significant matter and there is enough prima facie detail or supporting evidence provided to examine / investigate the incident.

e) Where the alleged breach of code of conduct is minor in nature and would not warrant an investigation.

f) Where the complaint relates to a private/civil matter.

2.5 The complaint will be acknowledged within a period of 10 days from receipt.

2.6 In the event a complaint is not receiving further consideration in accordance with paragraph 2.4 above, the complainant will be permitted to appeal the decision not to examine/ investigate, by providing additional information within 10 days of the date of the Ethics Registrar's letter.

2.7 The Ethics Registrar will inform the Councillor who was subject to the complaint, that a complaint had been received and the next stages in the process if he/she believes that there is a possible contravention.

2.8 All information obtained through the course of the process must be treated in a confidential manner and meet the requirements of the Data Protection Acts 1988 and 2003, and Freedom of Information Act 2014.

3.0 Processing of the Complaint

3.1 Where the Ethics Registrar becomes aware of a possible contravention by a Councillor of a provision of Part 15 of the Local Government Act 2001, it is his or her duty to bring it to the attention of the Chief Executive and the Cathaoirleach of Meath County Council. It is a matter for the Chief Executive and the Cathaoirleach of Meath County Council, to consider what action should be taken in accordance with the legislation.

3.2 Upon examination of the complaint, the Chief Executive and the Cathaoirleach of Meath County Council may decide to resolve the complaint informally as an alternative to a formal investigation with possible recommendations/actions detailed in 4.4 below. In such cases, there may be no finding that the Councillor failed to comply with the Code of Conduct for Councillors.

3.3 Where the Chief Executive and the Cathaoirleach of Meath County Council make the decision to proceed with an investigation, as detailed in 4.0 below, the complainant will be advised that their complaint, will be put to the Councillor, the subject of the complaint.

3.4 The Chief Executive and the Cathaoirleach of Meath County Council as detailed in 3.1 above, shall notify the Councillor in question that a complaint has been made about them and provide

the opportunity for the Councillor in question to provide evidence or details, within 10 days, to help establish their position.

A Councillor who is the subject of a complaint is entitled to fair procedures. An elected Member against whom a complaint or allegation has been made of a breach of the Code of Conduct for Councillors will be advised, formally of the following in writing:

- That a complaint has been made against them.
- They shall be provided with a copy, or a redacted copy, where appropriate, of the complaint.
- That no conclusions will be drawn by until the facts have been investigated.
- That they are expected to assist with the investigation as far as is reasonably possible.
- That they may have a person of their choice present if an interview is to take place.
- That they have the right to respond/make a statement in relation to the complaint, either in writing or orally.

That as far as is reasonably possible, the confidentiality of the process and their privacy will be respected.

3.5 The Chief Executive and the Cathaoirleach of Meath County Council shall also consider what action should be taken.

The actions may include:

a) That no further action be taken, either because, no breach of the Code of Conduct has been evidenced, or it is felt, based on the information submitted, that investigation of the complaint would not be merited.

b) An informal approach for less serious matters may be adopted. (Refer to 4.4)

c) An Investigation into the matter. (Refer to 4.0)

d) Referral to the Standards in Public Office Commission. (Refer to 4.2)

e) Referral to An Garda Síochána. (Refer to 4.3)

f) Any other course of action considered appropriate in the circumstances. (Refer to 4.4).

3.6 Where the subject matter of the complaint is the Cathaoirleach of Meath County Council it will be the Leas Cathaoirleach of Meath County Council who will fulfil the application of procedures as set out in this policy for the Cathaoirleach of Meath County Council.

4.0 Actions

4.1 Report of Investigation

4.1.1 The Chief Executive and the Cathaoirleach of Meath County Council shall:

a) Cause a Terms of Reference for a 'Report of Investigation' to be prepared in writing (in advance of the preparation of the Report of Investigation).

b) Cause such report to be sent to and be retained by the Ethics Registrar.

c) Furnish the report to:

i) The Councillor (the subject of the investigation)

ii) The Person who made the complaint

4.1.2 The report under 4.1.1 (a) may set out the findings of the investigation together with its determinations in relation to the following matters:

a) Whether it has been possible or not to substantiate the complaint.

b) Whether there may have been a contravention of the Code of Conduct for Councillors by the Councillor concerned and whether the contravention is continuing.

c) In cases where the report finds that there has not been a contravention of the Code of Conduct by the Councillor concerned, whether the person or persons to whom the report is referred is of the opinion that the complaint was frivolous or vexatious or that there were no reasonable grounds for it.

d) In cases where the report finds the contravention is continuing, the steps to be taken by the Councillor to secure compliance with the Code of Conduct for Councillors and the period of time within which steps should be taken to ensure compliance.

e) Whether the contravention was committed unintentionally/inadvertently, negligently, recklessly or intentionally.

f) Whether the contravention was, in all the circumstances, a serious or a minor matter.

g) Whether the Councillor acted in good faith and in the belief that his or her action was in accordance with the Code of Conduct for Councillors.

h) In circumstances where a determination cannot be made, the reasons for failing to arrive at a determination.

4.2 Referral to the Standards in Public Office Commission

4.2.1 The Chief Executive and the Cathaoirleach of Meath County Council as detailed in 3.1 above has exhausted all local avenues in an investigation, and is of the opinion that the matter should be referred to the Standards in Public Office Commission, they shall:

Prepare a report in writing in relation to the matter and furnish it together with any relevant document or other thing in its possession to the Standards in Public Office Commission.

Note: The Standards in Public Office Commission supervises the Ethics in Public Office Acts 1995 and 2001, the Local Government Act 2001 (Part 15 Ethical Framework for Local Government Service) and the Regulation of Lobbying Act 2015.

4.2.2 Where a report prepared by the Standards in Public Office Commission relates to:

a) the Cathaoirleach of a Local Authority, it shall be furnished to the Leas-Cathaoirleach of Meath County Council and to its Chief Executive.

b) any other Councillor of Meath County Council, it shall be furnished to the Cathaoirleach of Meath County Council and to its Chief Executive.

4.2.3 Where a Standards in Public Office Commission Report of Investigation is furnished to Meath County Council, it shall be considered by the Elected Council.

4.3 Referral to An Garda Síochána

The Chief Executive and the Cathaoirleach of Meath County Council, either during or at the conclusion of the investigation, is of the opinion that he or she has information which he or she knows or believes might be of material assistance in preventing the commission by any other person of a relevant offence, or securing the apprehension, prosecution or conviction of any other person for a relevant offence they should disclose that information as soon as it is practicable to do so. On this basis they may prepare a report in writing in relation to the matter and furnish it together with any relevant document or other thing in its possession to the Director of Public Prosecutions and/or another body with the statutory power and function of investigation of particular matters.

The Report of Investigation, detailed in 4.1 above, will be paused and not concluded until the Director of Public Prosecutions and/or another body complete the relevant statutory investigation.

4.4 Any other Course of Action Considered Appropriate

The Chief Executive and the Cathaoirleach of Meath County Council to whom the complaint is referred to, as detailed in 3.1, may decide on any other course of action considered appropriate, as an alternative to investigation or seek to resolve the complaint informally. In such cases, there may be no finding that the Councillor failed to comply with the Code of Conduct for Councillors.

Possible actions that may be considered include:

a) Recommendation that the Councillor concerned undertake training.

b) Recommendation that the Councillor concerned and the complainant engage in a process of conciliation / mediation.

c) Instituting changes to the procedures of Meath County Council if they have given rise to the complaint.

d) Writing to the Councillor concerned to remind them of the provisions of the Code of Conduct for Councillors.

e) Writing to the Councillor concerned recommending that an apology be made to the complainant.

f) Writing to the subject Member to remind them of the requirements under Part 15 Ethical Framework for the Local Government Service.

5.0 Withdrawal of a Complaint

Where a complainant wishes to withdraw their complaint once an investigation has commenced, the person or persons, to whom the complaint is referred to, as detailed in 3.1, may decide whether to grant the request. The person or persons, to whom the complaint is referred will consider:

a) Whether the public interest in taking the action outweighs the complainant's desire to withdraw it.

b) Whether action can be taken without the complainant's participation.

6.0 Standards in Public Office Commission

Any person can make a complaint against a local authority member to the Standards in Public Office Commission: To note, this would be treated as a new complaint. The Commission acts independently in its decision-making and is not a forum for appeals against the decisions of other organisations.

Standards in Public Office Commission,
6 Earlsfort Terrace,
Saint Kevin's,
Dublin 2,
D02 W773.