

GUIDE TO MAKING A COMPLAINT ABOUT A COUNCILLOR

1. Introduction

- 1.1 Councillors are elected by the general public to represent the constituents of an electoral division (in the case of the County Council) or a ward (in the case of a District Council).
- 1.2 Councillors should conduct themselves in a way that is beyond reproach. However, if you believe that a councillor has breached the Code of Conduct this leaflet explains how to make a complaint and how your complaint will be dealt with.
- 1.3 The District Council takes all complaints seriously and it is our experience that many complaints can be resolved quickly and effectively on an informal basis. We would welcome the opportunity to help put things right for you at an early stage without the need for a formal complaint.
- 1.4 Please contact the Monitoring Officer to discuss your complaint further.

2. How to Make a Complaint

- 2.1 If we cannot address the problem for you informally, you have the right to make a formal complaint. To do this you need to send your complaint in writing (either using the form accompanying this leaflet or by downloading it from the Council's website) marked confidential, to the Monitoring Officer. Please ensure that when submitting your complaint you provide sufficient information to enable a decision to be made as to whether an investigation or other action is warranted.

3. Who You Can Complain About

- 3.1 You can complain about elected councillors, or co-opted members, of the District Council (a Co-opted Member is a voting member of a Council or one of its Committees, who was appointed to their position rather than being elected).

4. What You Can Complain About

- 4.1 You can complain about a Councillor breaching any part of their Council's Code of Conduct.
- 4.2 Arrangements adopted by the Council set out the types of behaviour that can be

investigated. There are some complaints that cannot be investigated, including:

- (a) Complaints where a Councillor is not named;
- (b) complaints that are not in writing;
- (c) acts carried out in a Councillor's private life when they are not carrying out the work of the Council;
- (d) incidents or actions that are not covered by the Code of Conduct;
- (e) incidents that are about a fault in the way the Council has or has not done something – this is something that may be dealt with by a different complaint procedure;
- (f) complaints about people employed by local Councils – this would be dealt with by the employer;
- (g) incidents that happened before a Councillor was elected;
- (h) incidents that happened either before the authority adopted its local Code of Conduct;
- (i) complaints about the way in which the Council conducts and records its meetings.

5. Before You Complain

5.1 Before you send us your complaint, you should be aware that in the interests of fairness and natural justice, we believe Councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with details of the complaint.

5.2 Details of the complaint will be given to:

- (a) The Monitoring Officer of the Council and his staff in order to handle the matter;
and
- (b) the Councillor(s) you are complaining about
- (c) Members of the Standards Committee
- (d) The Town/Parish Clerk (if applicable)
- (e) The Independent Person
- (f) The Group Leader (if applicable)

6. What Happens To Your Complaint?

6.1 When we receive your complaint, we will write to you to let you know that we have received it. Your complaint will then be referred to the Monitoring Officer. The Monitoring Officer (acting in consultation with the Independent Person) will decide either to:

- (a) Not refer the complaint for investigation; or
- (b) refer the complaint for investigation; or
- (c) apply the informal resolution process either before or after an investigation; or
- (d) following Investigation; to refer the complaint to the Hearing Panel; or
- (e) take no action and close the matter; or
- (f) refer the complaint to the relevant political group leader for action.

6.2 In assessing your complaint the following and criteria will be used:

6.3 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the Council's decisions, policies and priorities, etc.

6.4 If the complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected. You will be notified accordingly with reasons, normally within 10 working days.

6.5 Local assessment criteria test:

6.6 If the complaint satisfies the jurisdiction test, the following local assessment criteria test will then be applied:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) the complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) no or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) the complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) the Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) the alleged misconduct happened more than 3 months ago;
- (g) the complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) the circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) the complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
- (j) the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) the complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Council or Co-opted Member.

6.7 If one or more of the local assessment criteria applies to the complaint, no further action will be taken and the complaint will be rejected. You will be notified

accordingly with reasons, normally within 10 working days.

7. Informal Resolution

If your complaint meets the local assessment criteria and is considered suitable for informal resolution the Monitoring Officer (acting in consultation with the Independent Person) will contact you and the Councillor you have complained about to agree a fair resolution, which will help to ensure higher standards of conduct for the future.

8. The Investigation

8.1 If your complaint is referred for investigation, you will have an opportunity to provide the investigator with any further detailed information or documents that you consider to be relevant.

8.2 At the end of an investigation, a decision will be taken whether there is evidence of a failure to comply with the Code of Conduct and, if so, whether to:

- i. take no action; or
- ii. seek informal resolution; or
- iii. refer the matter for consideration by the Hearing Panel.

8.3 A Hearing Panel is a panel made up of councillors of the Council's Standards Committee. The Hearing Panel can decide if there has been a breach of the Code, and if so what sanction to recommend.

9. Sanctions

The range of sanctions available to the Hearing Panel if they decide there has been a breach of the Code includes the following:

- (a) reporting its findings to a meeting of the full Council [*or to the relevant Parish Council*] for information and/or censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- (b) issuing a press release/or other appropriate publicity;
- (c) recommending to the Councillor's political Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council

for a specified period;

- (d) recommending to the Leader of the Council that an Executive Councillor be removed from the Executive, or removed from particular portfolio responsibilities;
- (e) recommending appropriate training for the Councillor;
- (f) recommending to the Council the removal of the Councillor *[or recommending to the relevant Parish Council that the Councillor be removed]* from all outside appointments to which they have been appointed or nominated by the Council *[or by the relevant Parish Council]* for a specified period;
- (g) withdrawing *[or recommending to the relevant Parish Council that it withdraws]* facilities provided to the Councillor by the Council for a specified period, for example electronic access to the Council's systems; or
- (h) excluding *[or recommending that the relevant Parish Council excludes]* the Councillor from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or,
 - (i) instructing the Monitoring Officer to apply the local/informal resolution process; or,
 - (j) sending a formal letter to the Councillor.

10. Additional Help

- 10.1 Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.
- 10.2 We can also help if English is not your first language. However, we recommend that you always try to find a friend or relative who can speak or read English to help you with your enquiry initially. This will help both you and us to deal with your needs more effectively.
- 10.3 If you need advice or any support in completing this form, please contact the Monitoring Officer as soon as possible or contact your local Citizens Advice Bureau, Law Centre or other advice centre.