

CODE OF CONDUCT COMPLAINTS PROCEDURE



South
Cambridgeshire
District Council

1. Introduction

These procedures set out how you may make a complaint that an elected or co-opted member of this Council, or of a parish council within its area, has failed to comply with their council's Code of Conduct for Councillors.

The procedures also set out how the Council will deal with allegations of a failure to comply with the Code of Conduct.

2. The Codes of Conduct

The Council has adopted a Code of Conduct for Councillors, which is available on the Council's website and on request from Democratic Services (see contact details below).

Each parish council is also required to adopt a Code of Conduct for Councillors. The parish council code is available on request from the respective parish clerk.

3. Making a Complaint

In order to ensure that we have all the information which we need to be able to process a complaint, Complaints must be submitted on the standard Complaint Form, which can be downloaded from the Council's website and is available on request from Democratic Services (see contact details below).

Complaints must be sent to the Monitoring Officer (see contact details below).

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

The Council's arrangements for handling complaints relating to the Code of Conduct include the appointment of at least one Independent Person (who has no connection with local government) whose views must be sought by the Council before it takes a decision on what action to take.

If a Complaint is received other than on the Standard Complaint Form, we will not consider it but we will send the Complainant a copy of the form for completion. If anyone needs assistance completing the form, they can contact Democratic Services (see contact details below).

Complainants should give us their name and a contact address or email address, so that we can acknowledge receipt of the Complaint and keep them informed of its progress. If a Complainant wants to keep their name and address confidential, they should indicate this on

the Standard Complaint Form. In this case we would not disclose their name and address to the Councillor without the Complainant's prior consent. However, the Council does not normally investigate anonymous Complaints or complaints where the Complainant wishes to remain confidential, unless there is a clear public interest in doing so.

Within five working days of receiving a fully evidenced Complaint, the Monitoring Officer will usually:

- i) acknowledge receipt to the Complainant;
- ii) send a copy of the Complaint to the Councillor, unless the Monitoring Officer considers that this may prejudice investigation;
- iii) send a copy of the Complaint to the Clerk (if appropriate).

The Monitoring Officer will keep the Complainant, the Councillor and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

4. Will the Complaint be Investigated?

Where possible and appropriate, the Monitoring Officer will seek to resolve the Complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable/inappropriate and offering an apology, or other alternative action by the Council or the respective parish council.

The Monitoring Officer will review every Complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation.

In determining whether or not the complaint should be referred for investigation or not, or whether alternative resolution is appropriate, The Monitoring Officer and Independent Person will have regard to a range of factors including the following:

- i) Whether there is sufficient evidence upon which to base a decision
- ii) Whether the alleged action relates to a breach of the code of conduct
- iii) Whether the alleged action is considered to be serious or minor/trivial
- iv) Whether the complaint appears to be politically motivated, vexatious or tit for tat;
- v) When the action complained about occurred (was it more than 3 months ago)
- vi) Whether the allegations relate to actions occurring whilst the councillor was acting in their official capacity or in their private capacity
- vii) Whether it is in the public interest to investigate
- viii) Whether the matter is considered suitable for alternative resolution and if so whether the councillor and the complainant are prepared to consider this alternative
- ix) If the complaint relates to a parish council issue whether a complaint has been made first to the parish council using the parish complaints procedure
- x) If a complaint has been made to a parish council and they have taken action whether the action taken would be considered reasonable in all the circumstances

This decision will normally be taken within twenty working days of receipt of the Complaint. When the Monitoring Officer has taken a decision, they will inform the

Complainant, the Councillor and the Clerk (if appropriate) of their decision and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, they may ask the Complainant, the Councillor or the Clerk (if appropriate) for such information. Where a Complaint relates to a parish councillor, the Monitoring Officer may also seek the views of the Chairman of the parish council before deciding whether the Complaint merits formal investigation.

If the Complaint alleges criminal conduct or breach of a regulation by any person, the Monitoring Officer has the power to refer the matter to the Police and/or other regulatory agencies. In such cases it may be necessary to postpone consideration of the Complaint until the Police or other action has been concluded.

If the Monitoring Officer decides not to investigate a complaint, they will nevertheless report this to the next ordinary meeting of the Civic Affairs Committee and the relevant parish council (if appropriate) for information.

5. How is an Investigation Conducted?

If the Monitoring Officer decides, after consultation with the Independent Person, that a Complaint merits formal investigation, they will appoint an Investigating Officer who may be another officer of the Council, an officer of another Council or an appropriately experienced external investigator.

The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the Complaint and so that the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who they need to interview.

The Investigating Officer would normally write to the Councillor and ask them to provide their explanation of events, and to identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, the Investigating Officer may delay notifying the Councillor until the investigation has progressed sufficiently.

At the end of the investigation, the Investigating Officer will usually produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Councillor, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they believe requires more consideration. Having received and taken account of any comments on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and if satisfied that it is sufficient, the Monitoring Officer will send a copy of the Investigating Officer's final report to the Complainant, the Councillor and the Clerk (if appropriate) and notify them that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider their report.

The outcome of such investigations will be reported to the next ordinary meeting of the Civic Affairs Committee and the relevant parish council (if appropriate) for information.

7. **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing by the Civic Affairs Committee or, after consulting the Independent Person, seek Summary Resolution (see 8 below).

8. **Summary Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Chairman of the Civic Affairs Committee, the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable/inappropriate and offering an apology, and/or other alternative action by the Council or the relevant parish council (if appropriate).

If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Civic Affairs Committee and the relevant parish council (if appropriate) for information, but will take no further action.

9. **Referral for Hearing**

If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Councillor does not comply with any suggested resolution, then the Monitoring Officer will refer the Investigating Officer's report to the Civic Affairs Committee for a hearing to decide whether or not the Councillor has failed to comply with the respective Code of Conduct and, if so, whether to take any action in respect of the Councillor. The hearing procedure is set out in Appendix 1.

10. **What action can the Civic Affairs Committee take where a Councillor has failed to comply with the Code of Conduct?**

The Council has delegated to the Civic Affairs Committee such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct.

The sanctions available to the Civic Affairs Committee are set out in Appendix 2.

11. **What happens after a Hearing?**

As soon as reasonably practicable, the Monitoring Officer will prepare a formal decision notice, in consultation with the Chairman, and send a copy to the Complainant, the Councillor and the Clerk (if appropriate). They will also make that decision notice available for public inspection on the Council's website after the hearing.

12. **Who are the Civic Affairs Committee?**

The Civic Affairs Committee is a committee of the District Council, appointed by the Council and comprising thirteen District Councillors.

13. **Who is the Independent Person?**

The Independent Person is a lay person who has been appointed by a majority of all the Councillors on the District Council.

The Independent Person is invited to attend all meetings of the Civic Affairs Committee. Their views are sought and taken into consideration:

- (a) before the Monitoring Officer decides whether to investigate a Complaint
- (b) before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution
- (c) before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct; and
- (d) as to any action to be taken following a finding of failure to comply with the respective Code of Conduct.

14. **Appeals**

There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer or of the Civic Affairs Committee. If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

15. **Revision of these Arrangements**

The Civic Affairs Committee may amend these arrangements, and has delegated to the Chairman of the Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

16. **Contact details**

The Council's Monitoring Officer is:

Fiona McMillan
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA
Tel: 01954 713027
Email: monitoring.officer@scambs.gov.uk

The Democratic Services Team can be contacted at:

Democratic Services
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA
Tel: 01954 713030
Email: democratic.services@scambs.gov.uk