



# Complaints Form

## Complaint against a Councillor

### A. Your details

Please provide us with your name and contact details. Anonymous complaints will only be considered where there is independent evidence to substantiate the complaint.

Title Mr  Mrs  Miss  Ms  Other: .....

Your name: .....

Your address: .....

.....

..... Postcode: .....

Your phone number: .....

Your email address: .....

Details of your complaint will normally be shared with the councillor(s) you are complaining about. If you have concerns about the release of your information in this way please read [Section 7](#) of the guidance before you consider completing [Section C](#) of this form. Alternatively, if you consider that you need further advice before completing the form, please contact the Monitoring Officer.

Please tell us which complainant type best describes you:

- member of the public
- elected or co-opted member of the County Council
- elected or co-opted member of a Council other than Somerset County Council
- co-opted member of a Council's Standards Committee
- Member of Parliament
- Council officer
- other (please specify.....)

### B. Making your complaint

Please provide us with the name of the Councillor(s) you believe have breached the Code of Conduct:

Title	First name	Last name
.....	.....	.....
.....	.....	.....
.....	.....	.....





# Guidance and process relating to how to make a complaint about the behaviour of a Somerset County Councillor

## 1. The complaints regime

This guidance and the complaints process relates to complaints made against county councillors and co-opted members of the Council's committees. The complaints process and related matters are overseen by the Council's Standards Committee.

## 2. Complaints that can be considered under this process

The guidance below will help you decide whether your complaint is something that can be considered under this process. If you remain unsure having read this guidance please contact the Monitoring Officer for further guidance.

Your complaint must be:

- ï About conduct that occurred while the councillor(s) was in office.
- ï That the councillor(s) has, or may have, breached the Council's Code of Conduct.
- ï About a breach of the Code when the councillor was acting or appearing to act in their official capacity as a county councillor. What a councillor does in their private life is not a matter about which a complaint can be considered under the Code.
- ï In writing and on the form provided for the purpose.

On receipt of a complaint, the Monitoring Officer will decide on the course of action to be taken in respect of the complaint having first consulted the Council's appointed Independent Person. Wherever possible, the Monitoring Officer will seek to resolve complaints without the need for a formal investigation. The factors to be taken into account in reaching a decision are:

- ï Whether a substantially similar allegation has been made to the Monitoring Officer, or the complaint has been the subject of an investigation by another regulatory authority
- ï If the complaint happened a long time ago where the lapse of time means there would be little benefit or point in taking action now
- ï Whether the complaint is anonymous
- ï Whether the allegation discloses a potential breach of the Code of Conduct but the complaint is not serious enough to merit any action
- ï Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat
- ï Whether it is apparent that the councillor complained about is relatively inexperienced, or has admitted making the error and the matter would not warrant a serious sanction
- ï Whether a simple apology, training or conciliation would be an appropriate response
- ï Whether a reasonable offer of local resolution is offered by the councillor, but is rejected by you.

## 3. What happens when you submit your complaint?

The Monitoring Officer will acknowledge receipt of complaints within 10 working days of receiving the complaint and sooner if at all possible. The Monitoring Officer will then notify the councillor(s) to whom the complaint relates with details of the complaint and invite them to make representations.

## 4. Initial assessment of your complaint

The Monitoring Officer will then consult the Council's appointed Independent Person on the complaint and his proposed decision on the treatment of the complaint. The Independent Person is an individual who is not a councillor and who the County Council has appointed to assist the Monitoring Officer in dealing with such complaints.

Once the views of the Independent Person have been received, the Monitoring Officer will inform the complainant of his decision in relation to the complaint.

The decision will confirm whether the complaint relates to the Code of Conduct and what action is proposed. The councillor(s) will be similarly informed.

The Monitoring Officer's decision might:-

- Find no evidence of a breach of the Code of Conduct in which case the matter will be considered closed.
- Find evidence of a minor breach of the Code of Conduct but which is not serious enough for any formal action to be taken against the councillor although, informal actions may be agreed with the parties concerned.
- If it is possible that a serious breach of the Code of Conduct may have occurred, decide that an investigation is required to fully establish the facts. The investigation may be carried out by the Monitoring Officer or by an independent investigator depending on the circumstances surrounding the complaint.

In each case the Monitoring Officer will inform the complainant and the councillor(s) complained about of the reasons for his decision.

If the investigation reveals a failure to comply with the Code of Conduct then the Monitoring Officer in consultation with the Independent Person is authorised to seek a local resolution to the complaint providing all parties agree.

If a local resolution is not considered appropriate or is not agreed, then the Monitoring Officer will report the outcome of the investigation to the Hearing Panel of the Standards Committee at a local hearing. The hearing will be held in public, wherever possible, and although will be conducted on a relatively informal basis, both parties will be able to make representations and call witnesses. At the end of the hearing the Panel after consulting the Independent Person will decide whether on the balance of probabilities there has been a failure to comply with the Code of Conduct and what 'sanction' or 'sanctions' should be imposed.

If the initial assessment reveals the possibility of a criminal offence having been committed by the councillor(s), the Monitoring Officer shall refer the complaint to the police for investigation and no further action shall be taken on the complaint within the Council. The scope for a councillor to be accused of criminal activity is very limited and is restricted to the registration and declaration of disclosable pecuniary interests.

There is no right of appeal against the decisions of the Monitoring Officer or the Panel, if you are unhappy with the outcome then you may complain to the Local Government Ombudsman or challenge the decision through the Courts by way of Judicial Review.

## 5. What happens if the complaint is investigated?

If the Monitoring Officer decides that an investigation is justified, the complaint will be investigated by the Monitoring Officer or investigators appointed by him. The Monitoring Officer will let all of those involved know that this is the case and the process that will be followed.

At the end of the investigation, the Monitoring Officer will issue a draft report to the complainant and the councillor(s) who is the subject of the investigation and invite comments which must be received within 10 working days. The Monitoring Officer will issue the final investigation report to the complainant, members of the Standards Committee, the councillor(s) complained about and the Independent Person. If a hearing is required and reaches a finding that there has been a failure to comply with the Code then there is a limited range of sanctions available as set out below in [section 8](#).

## 6. How should I set out my complaint?

Your complaint should be set out fully and clearly and provide all of the information at the outset including any supporting documents.

We recommend that you use the complaint form provided and cross reference any supporting information to the complaint. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the councillor(s) complained about has breached the Code of Conduct.

Examples of the sort of information that you should provide are set out below:

- You should be specific, wherever possible, about exactly what you are alleging that the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was that they said;
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general time frame;
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible;
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

## 7. I am the complainant but I don't want my identity revealed

If you ask for your identity to be withheld from the councillor(s) you are complaining about, this request will be considered by the Monitoring Officer at the initial assessment stage.

In the interests of fairness and natural justice, the councillor(s) you complained about should usually be told who has complained about them and receive details of the complaint.

However, in exceptional circumstances, the Monitoring Officer may withhold your identity if on request from you, or otherwise, they are satisfied that you have reasonable grounds for believing that you or any witness relevant to the complaint may be threatened, victimised or harassed or your employment may be jeopardised if your or their identity is disclosed or if there are medical risks associated with their or your identity being disclosed. If your request for confidentiality is not granted by the Monitoring Officer, you will be given the option of withdrawing your complaint.

The Monitoring Officer will balance the public interest in taking action on a complaint with a request to have the identity of a complainant withheld. Therefore, it is important to understand that in very exceptional circumstances where the matter complained about is very serious, the Council may proceed with an investigation or other action and disclose your name even if you have expressly asked us not to. We will contact you where this situation arises to discuss the matter first.

## 8. Remedies

The only sanctions available to the Hearings Panel of the Standards Committee are as follows:

- Reporting its findings to the Council for information;
- Recommending to the councillor's Group Leader that he/she is removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the councillor is removed from the Council's Cabinet or removed from particular Cabinet responsibilities;
- Instructing the Monitoring Officer to arrange training for the councillor;
- Removing the councillor from all outside body appointments to which he/she has been appointed or nominated by the Council;
- Withdrawing facilities provided to the councillor by the Council, such as a computer, website and / or email access;
- Excluding the councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.

## 9. Submitting a complaint

Fully complete the complaints form provided (or ensure your letter of complaint addresses, in full, all of the issues covered in the complaint form).

Submit the written complaint by post or email to the address set out here, as soon as possible after the date of the alleged breach.

Please complete sections A,B,C (if appropriate) and D, sign and date.

Return along with any additional pages to:  
Julian Gale, Monitoring Officer, Somerset  
County Council, FREEPOST NAT9109  
Taunton, Somerset, TA1 4ZA