

APPENDIX B

COMPLAINT ABOUT A COUNCILLOR

Guidance on how to make a complaint if you are unhappy about the behaviour of an Elected Member (Councillor) serving on Middlesbrough Council, Nunthorpe Parish Council or Stainton and Thornton Parish Council. This form may also be used to submit a complaint about Non-Elected Members such as a Co-opted Member of a Scrutiny Panel

This Guidance explains what you may complain about, how to fill in the complaint form and what will happen to your complaint once it has been submitted.

Code of Conduct

Middlesbrough Council has adopted a Code of Conduct for all of its Members. Each Parish Council is also required to adopt a Code of Conduct for its Members.

What cannot be investigated under the Members' Code of Conduct?

There are some complaints that cannot be investigated under the Members' Code of Conduct. These include:

- A complaint where you have not named the Member;
- A complaint that is not submitted in writing;
- Incidents that happened before the Member was elected;
- Incidents that have not occurred within the previous six months;
- Incidents that are not covered by the Members' Code of Conduct;
- Incidents that are about a fault in which the way the Council has done, or failed to do something, rather than the individual Member;
- Complaints about the staff of the Council;
- Incidents or matters that have happened when the Member was not acting in their official capacity as an Elected Member;
- Matters relating to a policy or the performance of the Council. These matters are classed as maladministration, and they may be considered by the Local Government Ombudsman. The Council should have the opportunity to remedy the complaint first, so these types of complaints should initially be submitted through the Council's Corporate Complaints process

How to make a complaint

Your complaint needs to be made in writing using the Members' Code of Conduct Complaints form. A copy of the form can be obtained from the Corporate Complaints Manager, Performance and Policy, PO Box 503, Town Hall, Middlesbrough, TS1 9FX. [Hyperlink to Web version](#)

Once you have completed your form, please send it, together with any additional information that you want to include in support of your complaint to:

The Corporate Complaints Manager, Performance and Policy, PO Box 503, Town Hall, Middlesbrough, TS1 9FX

How to complete the Complaint Form:

Section 1: Your contact details

Please provide your full name, address, contact telephone number and e-mail address if you have one.

Section 2: About you

Please tell us whether you are complaining as an officer of the Council, Member of the Council or Member of the public etc.

Section 3: Details of the Member you are complaining about

You can complain about Members of Middlesbrough Council, or Members of Nunthorpe Parish Council, Stainton and Thornton Parish Council or a Co-opted Member of a Committee.

Section 4: What you can complain about – Breach of the Code of Conduct

You can complain about a Member breaching any part of the Members' Code of Conduct. A copy of the Code of Conduct can be found at Appendix A to this Guidance.

If you believe that a Member has breached the Code of Conduct, please indicate which parts of the Code that you believe they have breached and attach any evidence that you may have that you feel is relevant to your complaint. This evidence may include details of any witnesses, or copies of any relevant documentation.

We can only consider a complaint on the evidence that has been provided or made available to us.

Section 5: Confidential information

In the interests of fairness and natural justice, we believe that Members who are complained about have a right to know who made the complaint and we would usually provide them with a copy of the complaint. Unless the Monitoring Officer is of the opinion that it is not in the public interest to do so, we are unlikely to withhold your identity, or the details of your complaint, unless the Monitoring Officer is of the opinion that it is in the public interest to do so. For example, where the disclosure of your personal details could result in any evidence being compromised or destroyed by the Member that is the subject of the complaint, or if there is a possibility that you or a witness could suffer intimidation from the Member.

What will happen to your complaint?

Once you have submitted your complaint, we will write to you to advise that we have received it. We will advise the Member that you are complaining about that we have received your complaint and advise them of the relevant parts of the Code of Conduct that it is alleged that they may have breached.

The Monitoring Officer will then consider your complaint and decide whether it should be progressed. If a decision is made to progress the complaint, it may be referred for investigation or informal resolution. As part of this process, the

Monitoring Officer will consult the Independent Person for their view on the merits of the complaint. If a decision is made not to progress your complaint, we will write to you giving reasons for our decision.

Failure to register or declare a Disclosable Pecuniary Interest

A Disclosable Pecuniary Interest is an interest that is defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. These include interests such as paid employment, sponsorship, contracts, land and securities. If you are complaining about a failure to declare a Disclosable Pecuniary Interest or where there is evidence of criminality, then we may refer the complaint to the police.

What is meant by 'Informal Resolution?'

The Monitoring Officer in consultation with the Independent Person, may decide that your complaint is best handled by 'Informal Resolution'. The reasons for this could be:

- The Member has not understood the Code of Conduct and/or Council/Parish Council procedures properly;
- There is a breakdown in relationships between the person complaining and the Member;
- The conduct complained of appears common to a number of Members, which may indicate a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Council/Parish Council procedures;
- The complaint appears to reveal a lack of guidance, protocols and procedures within the Council/Parish Council;
- The complaint consists of allegations and retaliatory allegations between Councillors; or
- The conduct complained of may be due to misleading, unclear or misunderstood advice.

Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Member, but may extend to other Councillors including the Council as a whole, where it may be useful to address systemic behaviour:

- a) Training;
- b) Conciliation/mediation;
- c) Mentoring;
- d) Apology;
- e) Making changes to the Council's/Parish Council procedures;
- f) Conflict management;
- g) Development of the Council's/Parish Council protocols;
- h) Other remedial action by the Council/Parish Council;
- i) Other steps (other than investigation), if it appears appropriate to the Monitoring Officer, in consultation with the Independent Person.

If the Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Standards Committee and take no further action.

Where the Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Standards Committee.

What will be taken into consideration when deciding what to do with your complaint?

The Monitoring Officer in consultation with the Independent Person, may take the following into account when deciding what to do with your complaint:

- Is the complaint serious enough to warrant the time and expense of an investigation?
- If proven, would a finding of a breach of the Code of Conduct help the Council to promote and maintain high standards of conduct?
- Is the complaint 'out of time', i.e. the matter occurred more than six months ago?
- Should the complaint be dealt with through another process, e.g. Corporate Complaints procedures?
- Is this a police matter?
- Is the sanction required, one that the Council is authorised to deliver?
- Does the complaint appear to be politically motivated?
- Is the complaint frivolous, malicious, vexatious or repetitive?
- Did the complaint arise as a result of lack of experience or training?
- Has the Member apologised for the conduct or are they willing to apologise?

There is no appeal against a decision not to investigate a complaint further, but reasons for the decision will be provided.

If a conflict of interest arises with the Monitoring Officer, the Deputy Monitoring Officer may consult the Independent Person.

Investigation

If a decision is made to investigate your complaint we will write to you and inform you of the timescales involved in completing the investigation. You will have the opportunity to provide the Investigating Officer with any information/documentation which you feel is relevant to your complaint. If the complaint is in relation to a Parish Councillor, we may ask the Parish Council to assist with the investigation. Responsibility for the investigation and the final decision on the outcome of the complaint will remain with the Monitoring Officer.

Conclusion of the Investigation

Once the investigation has concluded, if it is found that there is no breach of the Code of Conduct, the Monitoring Officer will write to you and the person who is the subject of the complaint to advise of the outcome and inform you that there will be no further action taken. There is no appeal against this decision but reasons for the decision will be given.

If the Investigating Officer concludes that there is evidence of a breach of the Code of Conduct, then the Monitoring Officer will consult the Independent Person and make a decision either to:

- a) Resolve the matter through an Informal Resolution
- b) Convene a meeting of the Standards Committee to hear the matter.

If the complaint progresses to a Standards Committee then the Monitoring officer will write to you and inform you of the Committee date.

The Committee will consider whether to hold the meeting in public or in private. This will be dependent on that nature and content of the complaint and whether any of the information is exempt/confidential.

The Investigating Officer will present their report to the Committee and call any witnesses that they deem necessary. The Member concerned will be allowed to respond to the Investigating Officer's findings and may also call witnesses.

If the Standards Committee determines that there has been no breach of the Code of Conduct, then the matter will be closed. There is no provision for an appeal against the decision of the Standards Committee.

If the Standards Committee concludes that there has been a breach of the Code of Conduct, the Committee must consider whether and what sanction would be appropriate to impose on the Member. These could include:

- Censure or reprimand
- Removal of Member from a Committee
- Require the Member to undergo further training
- Withdrawal of certain facilities or services which could include access to Council premises and/or removal or restriction of IT facilities
- Implement a Communication Plan

The Council does not have the authority to suspend a Councillor from office or to withhold any basic allowance remuneration.

There is no provision for an appeal against the decision of the Monitoring Officer and Independent Person or the Standards Committee.