

Complaining about a Councillor's Behaviour



Complaining about a Councillor's Behaviour

A guide to making a complaint about certain types of inappropriate behaviour by elected, co-opted and independent members of Swale Borough Council or parish/town councils operating in Swale.

If you would like further copies or alternative versions of any document (i.e. large print, audio, different language) we will do our best to accommodate your request. Please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent ME10 3HT or telephone the Customer Service Centre on 01795 417850.

How to make a complaint

You need to send your complaint, in writing, to the address at the end of this leaflet. A form is included with this leaflet to help you make sure you are sending us all the information we need. You can either use the form or write a letter that covers all of the points in the form. Please send any documents that support your complaint with your form or letter.

If you cannot write your complaint in English, we can arrange to have it translated for you. If you have any questions or difficulties filling in this form, please contact our referrals staff who deal with complaints when they are first received, on 01795 417268, or email monitoringofficer@swale.gov.uk

Please note that the Council has no power to suspend or disqualify a member or to withdraw Members' or Special Responsibility allowances.

Who you can complain about

You can complain about councillors, members and co-opted members of all of the authorities we cover.

A co-opted member is a voting member of an authority or one of its committees, who was appointed to their position rather than being elected.

The authorities we cover are:

- Swale Borough Council and
- Parish or town councils operating in the Swale area

We can only consider complaints about individual councillors or members. We cannot consider complaints about the authority as a whole or about people employed by it.

What you can complain about

You can complain about a member breaking any part of their Authority's Code of Conduct.

This may include a complaint arising out of failure to observe the following:

- **Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

Personal commitment to appropriate conduct under the Code

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

If none of the above applies to your complaint, it is probably not something we can deal with. To find out if another organisation can help you, contact your local Citizens Advice Bureau, Law Centre or other advice centre.

What we cannot consider

An Act of Parliament has set out the types of behaviour that we can investigate. There are some complaints that we cannot investigate, including:

- complaints where a member is not named
- complaints that are not in writing
- incidents or actions that are not covered by the Code of Conduct
- incidents that are about a fault in the way the Authority has or has

not done something. This is known as maladministration and may be a matter for the Local Government Ombudsman

- complaints about people employed by local authorities
- incidents that happened before a member was elected
- complaints about the way in which the Authority conducts and records its meetings

Before you complain

Before you send us your complaint, you should be aware that we are unlikely to be able to keep your identity confidential from the person about whom you are making the complaint. Details of the complaint will be given to the member about whom you have complained. If you have concerns about this and would like to discuss it with someone, please call 01795 417268 and a member of our staff will be pleased to help.

What happens to your complaint?

When we receive your complaint, we will write to you to let you know that we have received it. We will then assess your complaint. We may decide that it will not be investigated for one or more of a number of reasons. These reasons could include those listed in 'What we cannot consider' on page 4. In addition, we may decide not to investigate your complaint because it:

- is not serious enough to justify the use of resources involved in an investigation
- has already been investigated and there is no significant new information

If we decide not to refer your complaint for investigation, we will write to you explaining why.

If we decide to refer your complaint for investigation, we will write to you to let you know when the investigation has started and, when it is over, we will write to you to tell you the outcome.

Please note there is a presumption in favour of resolution of your complaint without formal investigation, wherever practicable.

The investigation

Will your complaint be investigated?

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. This decision will normally be taken within 28 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the Member against whom your complaint is directed. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the Authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

Further information regarding the Investigation and Hearing Process will be forwarded to you in the event of the matter requiring formal investigation.

Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

A person cannot be “independent” if he/she –

- a. Is, or has been within the past 5 years, a Member, co-opted Member or officer of the authority;

- b. *[Is or has been within the past 5 years, a Member, co-opted Member or officer of a parish council within the authority's area], or*
- c. Is a relative or close friend, of a person within paragraphs a and b above. For this purpose, "relative" means –
 - i. Spouse or civil partner;
 - ii. Living with the other person as husband and wife or as if they were civil partners;
 - iii. Grandparent of the other person;
 - iv. A lineal descendent of a grandparent of the other person;
 - v. A parent, sibling or child of a person within i or ii;
 - vi. A spouse or civil partner of a person within iii, iv or v;
 - vii. Living with a person within paragraphs iii, iv or v as husband and wife or as if they were civil partners.

Please remember that we can:

- only consider complaints that are about individual councillors or members, not the authority as a whole or authority employees
- only investigate matters where you believe a member has breached their authority's Code of Conduct
- not suspend or disqualify a member or withdraw their allowances

Please provide us with as much information as you can about your complaint to help us decide whether or not it should be investigated.

Please avoid sending us large amounts of background information that only indirectly relates to your complaint.

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

If we can be of any further help, please call us on 01795 417268.

We hope that this leaflet has answered all your questions about making a complaint.

If you have any more questions, you can contact us at:

Monitoring Officer Swale Borough Council, Swale House, East Street, Sittingbourne, Kent ME10 3HT.

Telephone: 01795 417268

E-mail: monitoringofficer@swale.gov.uk

Contacting the council

Swale Borough Council
Swale House, East Street
Sittingbourne
Kent, ME10 3HT

Copies of this document are available
on the council website
www.swale.gov.uk.

If you would like further information,
more copies or alternative versions
(i.e. large print, audio, different
language) we will do our best to
accommodate your request please
contact:

Customer Services,
Phone: 01795 417850
Email: csc@swale.gov.uk