

Code of Conduct for Elected Members

Making a complaint about a Councillor

Please read the information below alongside the Complaint Form (CoC 1 250712)

Your details

Note 1: Please provide your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

A copy of your complaint, including your name and address, will be sent to the following people

- The Member(s) you are complaining about
- Members of the Employment Appeals & Ethics Sub-Committee
- Monitoring Officer of the Borough Council
- the Parish or Town Clerk (if applicable)

If you have serious concerns about a copy of your complaint being released please complete section C of the complaints form. In this case a summary of the complaint will be provided to the Member(s) concerned to enable him/her/them to provide comments.

Making your complaint

Note 2: The procedure to be followed by the Employment Appeals & Ethics Sub-Committee, and the sanctions available, are governed by law.

Note 3: Please explain what the elected Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Employment Appeals & Ethics Sub-Committee when it decides whether to take any action on your complaint.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the date(s) of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- 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.

Confidentiality of complainant and complaint details

Note 4: In the interests of fairness and natural justice, Members who are complained about have a right to know who has made the complaint. They have a right to be provided with a summary of the complaint. It is unlikely that the Sub-Committee will withhold your identity or the details of your complaint unless you have good reason to believe that you have justifiable grounds.

For example:

- You believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with him or her)
- You feel you may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract you may have or are about to submit to the Council.
- You suffer from a serious health condition and there are medical risks associated with your identity being disclosed.
- You have reasonable grounds for believing you will be at risk of physical harm if your identity is disclosed.
- You are an officer who works closely with the Member(s) complained about and are afraid of the consequences to your employment or of losing your job if your identity is disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Employment Appeals & Ethics Sub-Committee will consider the request alongside the substance of your complaint. The Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

Important: In certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Process from here

Note 5: Once a valid complaint relating to an alleged breach of the Code of Conduct of Members has been received it will be considered by the Monitoring Officer to determine whether alternative action is appropriate or whether to refer it to the Employment Appeals & Ethics Sub-Committee for consideration. The Sub-Committee will aim to meet within 15 working days of the receipt of the Member's/Members' comments in response to the complaint.

Alternative action by the Monitoring Officer will take the form of a discussion with you and the Member(s) regarding the possibility of an apology being given and accepted.

The Sub-Committee may decide:

- i. to take no action
- ii. to attempt to resolve the matter informally between you and the Member(s)
- iii. to arrange a hearing before the Sub-Committee and an Independent Person
- iv. to arrange for the complaint to be investigated.

In the event that an informal resolution or a hearing without an investigation takes place it is open to the Employment Appeals & Ethics Sub-Committee to find there has been no failure to comply with his/her/their Council's Code of Conduct by the Member(s)

Options open to the Employment Appeals & Ethics Sub-Committee in the event an informal resolution or hearing without investigation takes place or complaint is investigated and a failure to comply with the Code of Conduct is found:

- i. no action needs to be taken
- ii. where the matter relates to a Borough Councillor, censure of the Member(s)
- iii. where the matter relates to a Parish or Town Councillor, that censure of the Member(s) be recommended to the Council concerned
- iv. whatever publicity the Sub-Committee considers appropriate be given to their findings
- v. it be recommended to the Council that the Member(s) be removed from a specific Committee.

The Sub-Committee may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct.

Note 6: If you consider it more appropriate, you can alternative action, such as an apology, through the Monitoring Officer.

Additional Information

Note 7: Complaints must be submitted in writing. This includes fax and electronic submissions (such as e-mail). 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.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

Criteria for Assessment of Complaints

Allegations that an elected Member of Test Valley Borough Council and elected or co-opted Members of Parish and Town Councils within its area have failed or may have failed to comply with their respective Member Codes of Conduct will be considered against the following criteria:

- Sufficient information has to be provided with the complaint to enable the Monitoring Officer and/or Employment Appeals & Ethics Sub-Committee to be satisfied that the complaint should be dismissed, considered for alternative action or referred for investigation. If insufficient information is provided, the Employment Appeals & Ethics Sub-Committee will take no further action on the complaint.
- Where the complaint is about somebody who is no longer a Member of Test Valley Borough Council or one of the Parishes within its area but is a Member of another authority the Employment Appeals & Ethics Sub-Committee will consider whether it wishes to refer the complaint to the Monitoring Officer of that other authority.
- Where the complaint has already been the subject of alternative action or an investigation relating to the Code of Conduct the Sub-Committee will consider whether any further action will be taken.
- Where the complaint is the subject of current alternative action or investigation the Employment Appeals & Ethics Sub-Committee will not order separate alternative action or investigation of the complaint.
- Complaints should be made as promptly as possible after the events that form its subject matter. It should be noted that where the subject matter of the complaint took place more than 12 months ago or came to your attention more than 6 months ago it will not be considered.
- The Sub-Committee will consider the seriousness of the complaint and if it is trivial may decide not to take any further action.
- The Employment Appeals & Ethics Sub-Committee will also consider whether the complaint appears to be malicious or politically motivated. In these circumstances it may well decide that it is insufficiently serious to take further action.
- The Sub-Committee will also consider whether the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual Member(s)

For further information please contact:

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