

Medway Council procedure for dealing with Councillor Conduct complaints under the Localism Act 2011

Introduction

Medway Council is committed to high standards of behaviour and conduct by Councillors who are visible community leaders. The Councillor Conduct Committee will promote high standards of behaviour and consider complaints raised about potential breaches of the code of councillor conduct.

Medway Council and the 11 Parish Councils have adopted a Code of Conduct that is based on the seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Localism Act 2011 amended the way that Councils can deal with any concerns that are raised about the conduct of Councillors. These arrangements regarding Medway Councillors and Parish Councillors applied from 1 July 2011.

It is important to note that the Councillor Conduct Committee can only look into complaints about a breach or potential breach of the Councillor Code of Conduct. The Councillor Conduct Committee will use this procedure to determine how to deal with complaints, having regard to the Screening Process Flowchart (attached)

Presumptions

- Complaints should be settled quickly, efficiently and informally and in a way that represents value for money and takes into account the limited action that can be taken against a Councillor.
- Details of the allegations made against a Councillor should not be made public until the end of the process and only if there is an investigation (subject to the rules on access to information).
- If a complainant makes an allegation public before it is concluded that may bring an end to the process since that publicity would be similar in gravity to the most serious action the Council could ultimately take of censure.
- Any investigations will be completed quickly and where possible by correspondence.
- There will be recognition from the outset of any complaint that the action that can be recommended at the end of any process must be proportionate to the need to ensure effective administration of the Council, the welfare of its staff or the reputation of the Council.

- Where a complaint is capable of resolution by a Political Group or Groups these will be referred for such resolution to the Leader and Whip of such Group or Groups.
- Any resolution decision by the Groups or Groups is final and cannot of itself give rise to a complaint except to the Local Government Ombudsman.
- Where a complaint involves a Parish Councillor, that this will be referred to the Parish Council concerned for resolution.

Making a complaint

In the first instance if you have a concern about a Councillor arising out of their role as a councillor as opposed to their private life, you are expected to discuss your concerns with the Monitoring Officer at Medway Council by telephone on 01634 332133. The Monitoring Officer is a senior officer with a legal background. They will discuss your concern and may suggest an alternative resolution to a formal complaint.

If you wish to make a complaint you can write to the Monitoring Officer or send an email to:

Perry Holmes, Monitoring Officer
 Medway Council, Gun Wharf, Dock Road, Chatham, Kent, ME4 4TR
perry.holmes@medway.gov.uk

We would like you to use the attached form so that we have all the relevant information. Anonymous complaints will not normally be considered.

You can expect:

- An acknowledgement of your complaint within 5 working days from the Monitoring Officer.
- That the Monitoring Officer will inform the subject Councillor that a complaint has been received (unless to do so would prevent proper consideration of the complaint).
- That you will be kept informed about the progress of your complaint.
- That only the Councillors on the Conduct Committee will consider your complaint as it is held in 'exempt session', in order to preserve the confidentiality of the process.

The Process

The process we will follow is set out below and is also illustrated by the attached diagram.

There are four main stages to our process; Screening, Investigation, Independent Review and Conclusion. At each stage we will be looking to quickly and informally resolve your concern.

In the **Screening** stage we will decide against the following criteria and based on the presumptions above whether we will investigate your concern or seek to resolve it in another way:

- Is the conduct complained of older than 6 months?
(If complaint is made about an event that occurred 6 – 12 months ago, unless there are exceptional circumstances, it will not be investigated) see note below:*
- Is the complaint about a councillor when they were acting in that capacity?
- On the face of the complaint is the conduct something, which is a potential breach of the Code of Conduct?
- Is the complaint one that should be referred to another body to investigate?
- Is the complaint about a Parish Councillor and it would be more appropriate for the issue to be resolved locally by the Parish Council?
- Could the complaint be dealt with by a Political Group?
- Is the complaint capable of being resolved by an investigation, bearing in mind the sanctions available?
- Bearing in mind the circumstances of the complaint, would it be disproportionate to investigate?

We could decide to take no action, suggest an informal resolution, seek the views of the Independent Person, or send your complaint for investigation.

**'Exceptional circumstances' could include an event or incident that took place more than 6 months ago, but did not come to light until recently, and the complainant brought it forward as soon as it had come to light.*

Assessment of Complaint - Independent Person's views

- The Localism Act 2011 provides that the Committee **must** seek, and take into account the views of the Independent Person before it makes a decision on an allegation that it has decided to investigate (section 28(7)(a) of the Localism Act). The Act also provides that the Committee **may** seek the views of the Independent Person in relation to an allegation at any other stage within the complaints procedure (section 28(7)(b) of the Localism Act).
- The Independent Person is appointed by Full Council. A second Independent Person is also appointed, ("the Second Independent Person"), in the event that at any stage the Independent Person has any conflict of interest that prevents him/her from carrying out the role.

In the **Investigation** stage we will seek to get more information about your concern and then put the information we have into a report. We will put the emphasis on speedy investigations completed remotely through correspondence to speed up the process and provide better value for money. If a complaint is withdrawn at any stage we will discontinue the process including any investigation.

In the **Independent Review** stage we will present all the information to an Independent Person who has no links to the Council to seek their opinion on how to proceed. We have to take their opinion into account.

In the **Conclusion** Stage the investigation report and the Independent Person's opinion will be presented to a Committee of Councillors. This may be a paper process or you may have to attend to be asked questions. A decision will be made how to resolve the complaint. You will be notified of the outcome.

Before reaching its decision, the Complainant and Member have the right to make submissions as to the appropriate sanction (if any). Where the decision is communicated in writing, the Council will re-convene the Panel Hearing to consider the question of sanction. In such situations, the subject Councillor will be invited to submit their representations in writing to the Monitoring Officer in advance of the re-convened hearing.

If you are not satisfied with how your complaint has been dealt with

There is no right of appeal by either party against a decision of the Monitoring Officer or of the recommendations of the Councillor Conduct Committee.

There is a right for any complainant, who is a member of the public, to refer the matter to the Local Government Ombudsman (LGO). The LGO does not have any powers to overturn the decision of the Committee but may ask the Committee to reconsider the matter or change its procedures if there is evidence of maladministration.