

# 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.

## 1. 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 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 deals with complaints when they are first received, on 01795 417268, or email [monitoringofficer@swale.gov.uk](mailto:monitoringofficer@swale.gov.uk)

## 2. 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.

### 3. WHAT YOU CAN COMPLAIN ABOUT

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

This includes:

- unlawfully discriminating against someone
- failing to treat people with respect
- doing something to prevent those who work for the authority from being unbiased
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or authority
- using their position improperly, to their own or someone else's advantage or disadvantage
- misusing the authority's resources
- allowing the authority's resources to be misused for the activities of a registered political party
- failing to register financial or other interests
- failing to reveal a personal interest at a meeting
- taking part in a meeting or making a decision where the member has an interest that is so significant that it is likely to affect his or her judgment
- failing to register any gifts or hospitality they have received in their role as a member, worth over £25

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.

### 4. WHAT WE CANNOT INVESTIGATE

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
- incidents that happened either before the authority adopted its local Code of Conduct or before 5 May 2002, whichever is earlier
- complaints about the way in which the authority conducts and records its meetings

### 5. 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.

## 6. 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 the section 4 'What we cannot investigate' above. 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.

## 7. THE INVESTIGATION

All complaints that satisfy the requirements of section 3 of this guidance are placed before a Referrals Sub Committee of Swale Borough Council's Standards Committee. This Sub Committee is chaired by an Independent Member of the Standards Committee and has twenty working days to decide whether:

- it appears to show a breach of the Code of Conduct
- it merits investigation

A complaint will merit investigation if it is

- Serious enough, if proven, to justify the range of sanctions available under the legislation.
- Part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it, short of investigation

In considering this, we will take into account the time that has passed since the alleged conduct occurred.

Initial assessment meetings will be held in private. The Standards Committee will notify the person making the complaint of the action it proposes to take which could include:

- Referring the allegation to the Standards Board for England
- Refusing to investigate the allegation
- Authorising a local investigation into the allegation

If we decide on a local investigation, we will let all those involved know that this is the case. When the investigation is carried out by an investigation officer, the scope of the investigation can be reviewed and extended.

If we refuse to investigate the allegation we will advise everyone and the complainant has the right to request the Standards Committee, through a separately constituted Review Sub Committee, to review the decision to refuse to investigate.

## 8. AT THE END OF AN INVESTIGATION

At the end of an investigation by an officer, if action is warranted, the case and the investigation report will be referred by the monitoring officer of the authority to either the relevant local authority's standards committee or a sub committee with powers delegated to it to conduct a hearing. They have a number of sanctions at their disposal up to and including suspending a member for up to six months (subject to regulations being passed – currently three months) and they take action accordingly.

### 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

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

Fax: 01795 417327

E-mail: [monitoringofficer@swale.gov.uk](mailto:monitoringofficer@swale.gov.uk)