

COMPLAINT ABOUT A COUNCILLOR'S CONDUCT

How to Complain

Councillors are subject to a Code of Conduct, which is based on a national code.

From May 2008 if you want to make a complaint that a Southend-on-Sea Borough Councillor (or a Leigh-on-Sea Town Councillor) has breached the Code of Conduct, then you need to complete a Complaint Form and send it to:

The Standards Committee
c/o Head of Legal & Democratic Services
Southend-on-Sea Borough Council
Civic Centre
Victoria Avenue
Southend-on-Sea
Essex SS2 6ER

Alternatively you can e-mail the completed Complaint Form to:

johnwilliams@southend.gov.uk

Assistance

To assist you in making a complaint the following documents are attached:

- Code of Conduct
- Complaint Form and Information for Potential Complainants (which includes the Assessment Criteria adopted by the Council's Standards Committee)
- A Standards Board for England leaflet "Making a Complaint"

Further Advice

The Standards Board for England provides an independent national overview of complaint handling against Councillors and will also deal with cases which it is inappropriate for Council's to handle themselves. However initially all complaints must be sent to the Council's Standards Committee.

The Standards Board for England can be contacted at:

Fourth Floor
Griffin House
40 Lever Street
Manchester
M1 1BB

Phone: 0161 817 5300

Email: enquiries@standardsboard.co.uk

Website: www.standardsboard.co.uk

Other Complaints

Complaints about the decisions, services or policies of the Council should not be made in this way, but should be made through the Council's General Complaints Procedure.

Complaints against Leigh-on-Sea Town Councillors

The Standards Committee of Southend-on-Sea Borough Council also deals with complaints about the conduct of Leigh-on-Sea Town Councillors. Accordingly if you have a complaint then please follow the above process.

COMPLAINT FORM:

CODE OF CONDUCT FOR MEMBERS

(Please read the attached 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

To The Chairman,
Standards Committee

A. Your details

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

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- The Member(s) you are complaining about
- The Monitoring Officer of the Southend-on-Sea Borough Council
- Members of the Assessment Sub-Committee of the Council's Standards Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and details of your complaint being released, please complete Section C of this form.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- An independent member of a Standards Committee
- A Member of Parliament
- A Monitoring Officer
- Other council employee, contractor or agent of the Council
- Other ()

B. Making your complaint

The sanctions available to a Standards Committee are governed by law and more serious sanctions are only available to the Adjudication Panel for England. You will find additional information in the attached 'Information for Potential Complainants'.

1. Please provide us with the name of the Member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name

2. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have 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, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint or not. 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 or did to insult you.
- You should provide the dates 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(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

(Continue on separate sheet(s), as necessary)

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

In the interests of fairness and in compliance with the rules of natural justice, we believe Members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him/ her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that:

- You may be at risk of physical harm should your identity be disclosed
- You work closely with the Member and are concerned about the consequences to your employment
- You have a serious health condition and there are medical risks associated with your identity being disclosed.

Evidence may be required in respect of the above and consideration will need to be given by the Assessment Sub-committee as to whether it is possible to investigate the complaint without making your identity known. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

D. Remedy sought

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

(Continue on separate sheet(s), as necessary)

E. Additional information

1. Complaints must be submitted in writing. This includes fax and electronic submissions.
2. 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 contact the Monitoring Officer as soon as possible.

F. Process from here

1. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Assessment Sub-Committee for consideration / determination. This meeting will be private and you and the Member complained about will not be allowed to attend. You will be notified after the meeting of the outcome and the further stages in the process.

The Assessment Sub-Committee may resolve to:

- (a) refer your complaint to the Monitoring Officer for investigation (or other action);
- (b) refer your complaint to the Standards Board for England, or

- (c) decide that no action is required in respect of the complaint (in which case you can request a review).
2. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

The Monitoring Officer can be reached in writing and his address is:

Southend-on-Sea Borough Council
Civic Centre
Victoria Avenue
Southend-on-Sea
Essex SS2 6ER

or by e-mail to johnwilliams@southend.gov.uk

Telephone No. 01702 215102

INFORMATION FOR POTENTIAL COMPLAINANTS

Changes to the complaints regime

From 8 May 2008, the responsibility for considering written complaints against a Southend-on-Sea Borough Councillor (or a Leigh-on-Sea Town Councillor) for breach of the Code of Conduct (which applies to Councillors) will move to the Standards Committee.

In the event of it being a serious complaint, it may be referred by the Standards Committee to the Standards Board for England for investigation and, for less serious matters, it may be referred to the Council's Monitoring Officer for investigation or other appropriate action (e.g. training / conciliation).

What this means to you

If you want to submit a written complaint about the conduct of a Southend-on-Sea Borough Councillor (or a Leigh-on-Sea Town Councillor) or a co-opted Member of either Council, you must submit your complaint to the address shown below.

Please note that the Standards Committee can only deal with complaints about the alleged behaviour and conduct of a Councillor. It will not deal with complaints about any of the Council's departments or matters not covered by the Council's Members' Code of Conduct. A copy of this Code can be found on the Council's Website:

If you want to make a complaint against any Southend-on-Sea Councillor (or Leigh-on-Sea Town Councillor), you will have to complete the necessary Complaint Form and provide relevant evidence to substantiate your allegation(s). The Form is available from the Monitoring Officer and the Council's website: www.southend.gov.uk.

Relevant Information

- (a) "Complaints against Members Rules" – have been adopted by the Council which set out in detail the procedures to be followed. These are available on the Council's website or on request.
- (b) Assessment Criteria - In assessing allegations in accordance with its terms of reference the Assessment Sub-Committee will also apply the following Assessment Criteria:

Which complaints will be referred for investigation?

- (a) It is serious enough, if proven, to justify the range of sanctions available to local Standards Committees or the Adjudication Panel for England.
- (b) It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it, short of investigation.

- (c) In considering this, the Assessment Sub-Committee will take into account the time that has passed since the alleged conduct occurred.

Which complaints are unlikely to be referred to investigation?

- (a) The complaint is considered to be vexatious, malicious, relatively minor, or tit-for-tat.

Note: Complaints may be considered to be vexatious if they are repeated complaints, use aggressive or repetitive language of an obsessive nature, disclose an ulterior motive and / or where the complainant refuses to let the matter rest once the complaint process (including the Review Stage) has been exhausted.

- (b) The same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the local Standards Committee or the Adjudication Panel for England.

- (c) The complaint concerns acts carried out in the Members' private life, when they are not carrying out the work of the Council or have not misused their position as a Member.

- (d) It appears that the complaint is really about dissatisfaction with a Council decision.

- (e) There is not enough information currently available to justify a decision to refer the matter for investigation.

- (f) Anonymous complaints will only be considered if documentary or photographic evidence is included indicating an exceptionally serious or significant matter.

- (c) Withdrawal of a complaint – if you make a complaint the Assessment Sub-Committee may only permit you to withdraw it in limited circumstances, such as if a request for confidentiality is made and the Assessment Sub-Committee are not prepared to grant it. In some cases the public interest in taking some action on the matter may outweigh a Complainant's wish to withdraw and the Sub-Committee may decide to proceed.

- (d) Vexatious Complaints – may be considered to be vexatious if they are repeated complaints, use aggressive or repetitive language of an obsessive nature, disclose an ulterior motive and/or where the Complainant refuses to let the matter rest once the complaint process (including the review stage) has been exhausted.

- (e) Information –If you are unsure about any aspect of the process, please contact the Monitoring Officer before submitting any complaint.

What you should do if you wish to submit a written complaint

- Talk to/raise the matter with the Council's Monitoring Officer for general advice.
- Fully complete the Complaints Form (or ensure your letter of complaint addresses, in full, all of the issues covered in the Complaint Form).
- Submit the written complaint by post, e-mail to the following address, preferably, within 28 days of alleged breach:

Address for submission of a written complaint

The Standards Committee
c/o The Monitoring Officer
Southend-on-Sea Borough Council
Civic Centre
Victoria Avenue
Southend-on-Sea
Essex SS2 6ER

Tel: 01702 215102

Fax: 01702 215110

E-mail: johnwilliams@southend.gov.uk

Sanctions available to Standards Committees

Extract from 2008 Regulations - Findings of standards committees

- 19.—(1)** Following a hearing held under regulation 18, a standards committee shall make one of the following findings:
- (a) that the member who was the subject of the hearing had not failed to comply with the code of conduct of any authority concerned;
 - (b) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or
 - (c) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned and that a sanction under paragraph (2) or (3) should be imposed.

- (2) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is no longer a member of any authority in respect of which it exercises any function under Part 3 of the Act, it shall censure that person.
- (3) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is a member of an authority in respect of which it exercises any functions under Part 3 of the Act, it shall impose any one of, or any combination of, the following sanctions—
 - (a) censure of that member;
 - (b) restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions—
 - (i) are reasonable and proportionate to the nature of the breach; and
 - (ii) do not unduly restrict the person's ability to perform the functions of a member;
 - (c) partial suspension of that member for a period not exceeding six months;
 - (d) suspension of that member for a period not exceeding six months;
 - (e) that the member submits a written apology in a form specified by the standards committee;
 - (f) that the member undertakes such training as the standards committee specifies;
 - (g) that the member participate in such conciliation as the standards committee specifies;
 - (h) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee;
 - (i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies;
 - (j) suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the standards committee;
 - (k) suspension of the member for a period not exceeding six months or until such time as that member has undertaken such training or has participated in such conciliation as the standards committee specifies.

- (4) Subject to paragraph (5) and regulation 21 any sanction imposed under this regulation shall commence immediately following its imposition by the standards committee.
- (5) A standards committee may direct that the sanction imposed under any of subparagraphs (b) to (k) of paragraph (3) or, where a combination of such sanctions is imposed, such one or more of them as the committee specifies, shall commence on such date, within a period of six months after the imposition of that sanction, as the committee specifies.

Sanctions available to Adjudication Panel for England

Pursuant to section 79(4) of the Local Government Act 2000, as amended, a person found to have breached the Code of Conduct for Members may be:

- (a) suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or
- (b) disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority for a period of up to 5 years.