

LOCAL CODE OF CONDUCT – COMPLAINTS PROCESS

1) Introduction

These notes have been prepared to enable you to make a complaint about the conduct of a Member(s) (Councillor) of the Local Authority or a Town and Parish Council. Attached is a complaint form, together with a copy of the Model Code of Conduct.

2) Changes to the complaints procedure

On 8th May 2008, the responsibility for considering complaints that a Member(s) of a Local Authority or a Town or Parish Council may have breached the Code of Conduct transferred to the Standards Committees of Local Authorities.

3) What this means to you

From now on, if you want to complain about the conduct of a Member(s) of Cheshire East Council or a Member(s) of one of our Parish or Town Councils, you must submit your complaint to the Monitoring Officer, Westfields, Middlewich Road, Sandbach, CW11 1HZ. The complaint must be in writing and a complaint form is attached to help you but you do not need to use it.

Complaints can only be dealt with where they relate to the behaviour of a Member(s) and it will be the Assessment Sub-Committee which will be asked to hear the complaint. It will not deal with complaints about matters which are not covered by the Member(s)s Code of Conduct. If you make a complaint, it must be about why you think a Member(s) has not followed the Code of Conduct.

3) Are you using the correct complaints procedure?

It is important to note that not every complaint will fall within the jurisdiction of the Standards Committee. Complaints about dissatisfaction with a decision or action of the Authority or one of its Committees, a service provided by the Authority or the Authority's procedures do not fall within the jurisdiction of the Standards Committee. Complaints of this nature should be made under the Council's separate Complaints Scheme.

Attachments:

- **Complaint Form**
- **The Local Authorities Model Code of Conduct 2007**

Please Note: This form is available on the Council's website, but cannot be accepted electronically. Please submit as hard copy to -

The Monitoring Officer, Westfields, Middlewich Road, Sandbach, CW11 1HZ

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s).
Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. *(See Explanatory Notes attached.)*

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

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

However, we will tell the following people that you have made this complaint:

- The member(s) you are complaining about
- The monitoring officer of the authority
- The parish or town clerk (if applicable)

We will tell them your name and given 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 a summary, or details of your complaint being released, please complete section 7 of this form.

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

- ☐ Member of the public
- ☐ An elected or co-opted Member of an Authority

- ☐ An independent Member of the Standards Committee
☐ Member of Parliament
☐ Local Authority Monitoring Officer
☐ Other Council Officer or employee of the Council
☐ Other - please specify ()

3. *Equality monitoring questions*

[Keep consistent with data collection elsewhere in the authority] Insert CEC provisions here

4. Making your complaint .

How to make a complaint

You must make your complaint in writing. This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

More detail about the complaint process, the possible outcomes of a complaint and how queries are dealt with can be found in the Explanatory Notes in the Appendix to this form.

5. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name

6. Please explain in this section (or on separate sheets) what the Member(s) 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 which you believe breaches the Code of Conduct.

The Explanatory Notes in the Appendix to this form give more guidance on what kind of information you should provide.

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

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

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason.

More detail on this can be found in the Explanatory Notes in the Appendix to this form.

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

8. Additional Help

As noted in paragraph 4 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. 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 me know as soon as possible.

[Contact details of person who can help to be inserted here (?possibly Deputy Monitoring Officer) together with details of the type of support which can be offered to complainants and how to access it.]

If you require this document or a summary version in large print, Braille, audiotape, CD or in another language, please contact us on 01270 529952.

APPENDIX**EXPLANATORY NOTES**

The following additional notes are numbered to correspond with those on the Complaints Form.

1. The following people will be informed that you have made this complaint.

- the Member(s) you are complaining about
- the parish or town clerk (if applicable)

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 a summary, or details of your complaint being released, please complete section 7 of this form.

Anonymous complaints will only be referred for investigation or some other action if accompanied by independent evidence to substantiate them or they indicate the exceptionally serious or significant nature of the complaint.

4. Making Your Complaint

What happens once you submit your complaint?

Assessment of the Complaint

The following initial tests and criteria will be applied to assess new complaints and decide what action, if any, to take. Each complaint will be judged on its own merits.

- Before assessment of the complaint

The complaint will be considered by the Assessment Sub-Committee of the Standards Committee, which must be satisfied that:

1. The complaint is against one or more named Member(s) of Cheshire East Council or a parish or town council within the Cheshire East Borough;
2. The named Member(s) was or were in office at the time of the alleged conduct; and
3. The complaint, if proven, would be a breach of the Code under which the Member(s) was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant will be informed that no further action will be taken in respect of the complaint.

○ Assessment of the Complaint

If the above tests are met the Assessment Sub-Committee will have regard to the following criteria:

1. Adequate information – the Sub-Committee will want to be satisfied that it has sufficient information to decide whether the complaint should be referred for investigation or other action;
2. Timescale – the Sub-Committee will take into account when the events. the subject of the complaint, took place and will not normally investigate or pursue other action if the event occurred more than 12 months prior to the complaint being submitted (except if it decides there are exceptional circumstances);
3. Seriousness of the complaint – the Sub-Committee will not normally refer a matter for investigation or other action if it is considered trivial, malicious, politically motivated or “tit-for-tat”.
4. Public Interest - if the complaint relates to an ex-Member of Cheshire East or one of its Town/Parish Councils, who is now a Member of another Authority, the Sub-Committee may refer the matter to the Standards Committee of that Authority for consideration. If the Member has resigned, is seriously ill, or has died, the Sub-Committee will only refer the matter for investigation or other action if it considers that the public interest will be served by so doing. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or has been investigated by other regulatory authorities, it is unlikely to be referred for investigation or other action unless it is evident that public interest will be served by further action being taken.

If we do not refer your complaint to the Standards Assessment Sub-Committee you will be informed of this and given the reason.

○ Decisions the Committee can make

If we decide that the Standards Committee will deal with your complaint, a meeting of the Standards Assessment Sub-Committee will be arranged within an average of 20 working days in order to decide what should happen next. The Sub-Committee can decide to -

- refer the complaint to the Monitoring Officer for investigation
- refer the complaint to the Monitoring Officer for other action
- refer the complaint to the Standards Board for England
- decide no action should be taken

When and how the complainant and others will be notified

Once the Standards Assessment Sub-Committee has reached a decision you will be informed of it and of the reasons for it within 5 working days. If the decision is to take no action, you can ask for a review. You must do this in writing within 30 days of receiving the decision. Your request must be considered within 3 months by a differently constituted Sub-Committee which may uphold the original decision or overturn it. You will receive written notification of its decision.

Where to direct enquiries

If you have any queries about any part of the complaint process you should contact the Monitoring Officer, Chris Chapman, at Westfields, Middlewich Road, Sandbach, CW11 1HZ: Tel. 01270 686013 or e-mail: chris.chapman@cheshireeast.gov.uk.

6. It is important that you provide all the information you wish to have taken into account by the Assessment 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 a Member insulted you, you should state what was said and the circumstances in which it was said.
 - 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.
7. Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted; the Assessment Sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that 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.

Requests for confidentiality will be considered using the following criteria -

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;

- The complainant is an officer who works closely with the subject Member(s) and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed;
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. Medical evidence may be requested in support of this criterion;
- Whether the complaint can be investigated without revealing the complainant's identity.

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