



**South Hams
District Council**

Standards Committee

Frequently Asked Questions

**for people who have complained about a
councillor's conduct**

What standards of behaviour apply to local councillors?

When councillors make their declaration of acceptance of office as a councillor, they also promise to abide by the provisions of the Code of Conduct for Local Authority Members. The most recent Code was issued as a model by the Government in 2007 and most authorities have either adopted it or something very like it, or have had it imposed upon them automatically in October 2007.

All councillors have the same ethical obligations but each council has to adopt its own code. You can see a copy of South Hams DC's Code of Conduct on its website: go to <http://www.southhams.gov.uk/part5-memberscodeofconduct-5.pdf> .

You can ask your local town or parish council clerk or administrator for a copy of their code. If you can't get one, you can see a copy of the Model Code in the schedule to the Local Authorities (Model Code of Conduct) Order 2007. You can find that on the website of the Office of Public Sector Information at: http://www.opsi.gov.uk/si/si2007/uksi_20071159_en_1

I am not happy about a councillor's behaviour. What can be done about it?

If you think a councillor has failed to abide by the provisions of the Code, you can complain about it.

Where do I send my complaint?

If your complaint is about a councillor who sits on the South Hams District Council, or a town or parish council in the South Hams, you can complain to the South Hams DC Standards Committee.

NB If you have complained about the behaviour of a person as a Devon County Councillor, then the County Council's Standards Committee will deal with it. If your complaint is about the behaviour of a person in their capacity only as a parish councillor (or district councillor) but they happen

also to be a county councillor, the South Hams Standards Committee will deal with it.

Who sits on the Standards Committee?

The Standards Committee of South Hams District Council has eight members. There are two district councillors, three representatives of town and parish councils and three independent members. The independent members have no connection with local government (except their seat on the Standards Committee) and one of them will chair meetings. The main function of the Standards Committee is to oversee the conduct of members of district, parish and town councillors, to promote good standards of behaviour and to deal with transgressions.

How do I complain about a councillor?

You should fill in a complaint form, which is available from the Monitoring Officer of the Council (see address on back page) or from the Council's website: go to http://www.southhams.gov.uk/index/council_index/ksp-complaints_suggestions-3/localcodeconduct-complaintsprocess.htm

There is guidance on how to fill in the form, and where to send it, on the form itself.

Will the person I am complaining about know what I've said?

Yes. The Monitoring Officer will write the councillor a letter and will tell him/her your name, unless you have asked to remain anonymous. When your complaint first arrives the Monitoring Officer will acknowledge it and explain what happens next. She will also write to the councillor concerned to tell them briefly what the complaint is about. This will be in enough detail to enable them to recall the incident in question. However, they will not usually get a copy of your complaint at this stage. This is because it will be considered first by the Standards Committee's Assessment Sub-Committee to see whether there is anything that really needs to be pursued.

Who sits on the Assessment Sub-Committee?

The Assessment Sub-Committee must consist of at least three members of the Standards Committee. It is their job to assess complaints when they first come in and they may make one of four decisions:

- to take no further action;
- to refer it to the Monitoring Officer for investigation;
- to refer it to the Monitoring Officer to take some other action (such as training or conciliation);
- to refer it to Standards for England for investigation (this is in the most serious cases).

When does the Assessment Sub-Committee sit?

The Assessment Sub-Committees is scheduled to meet every other Tuesday but will meet only if there is business to deal with. It sits at Follaton House, Totnes (the District Council's headquarters).

Can I attend the meeting of the Assessment Sub-Committee?

No. The subject councillor cannot attend either; nor can the press. The only people in attendance will be the members of the Sub-Committee, the Monitoring Officer or her representative and a Committee Administrator. They look at only what you have submitted on paper at this stage so it is important that you send in everything that you want them to consider.

How soon will I know about their decision?

The Monitoring Officer must tell you what the decision is within five working days but we aim to do that sooner.

What happens next?

If the Assessment Sub-Committee decides that there should be **no further action**, then the complaint will proceed no further, subject to your right to have the decision reviewed. This is described below.

If a complaint is [referred to the Monitoring Officer for investigation](#), she will arrange for someone – either a member of her staff, another Council officer or an external person – to conduct the investigation. When the investigation is complete – and it may take many weeks – the investigator will present a report to the Monitoring Officer. That report must then be considered by the Standards Committee once again. What happens after that is described below.

If the complaint is [referred to the Monitoring Officer for some other action](#), she will pursue whatever action the Sub-Committee recommends. This may be to arrange some training in the Code of Conduct for the councillor; or conciliation between you and the councillor; or mediation; or anything else which will serve to improve understanding of the requirements of the Code of Conduct of those in public office, or defuse a difficult situation. This will be the resolution of the complaint. It won't proceed further but the outcome will be published.

A complaint may be [referred to Standards for England](#) where the conduct complained of is very serious (e.g. an assault, serious fraud, failure to declare a significant interest); or the councillor concerned has been complained about before; or the councillor concerned is a prominent member of the council, so that it would be difficult for the Standards Committee to deal with it. In this case, the investigation will be conducted by an Ethical Standards Officer (ESO) appointed by the Standards for England under different procedures. The ESO will tell you about those, or you can look at the Standards for England website:

www.standardsforengland.gov.uk

How do other people find out about the Assessment Sub-Committee's decision?

We will tell the councillor concerned by letter. If he or she is a town or parish councillor we will also notify the clerk to the relevant town or parish council; and if the councillor is also a member of the County Council we will notify the County Solicitor. The Assessment Sub-Committee's decision will not be published, but the decision will be notified to the Standards Committee. Its minutes are a public document but they will contain only the barest details: the reference number of the complaint and the decision. Those details, and a reference to the provision of the Code that was alleged to have been broken, will also appear in due course on the District Council's website.

What happens if I am not happy that they decide to take no further action?

If (and only if) the Assessment Sub-Committee decide to take no further action, you can request that that decision should be reviewed. That request must be referred to the Review Sub-Committee of the Standards Committee. This is another group of three members of the Committee, none of whom participated in the assessment. Like the Assessment Sub-Committee, they sit in private. They consider the review afresh including all the material considered at the assessment stage and any new information you may have submitted. They can make the same decisions as could be made on assessment (see above). If they too decide that no further action should be taken, that is the end of the matter. You, the councillor, the town or parish council clerk and the County Solicitor (as appropriate) will be informed of the decisions and its bare essentials will be published, but as before only in the Standards Committee minutes and on the District Council's website.

What happens in an investigation?

The investigator will want to interview you, the councillor and any witnesses that either of you may wish to introduce in support of what you are saying. The investigator will look at relevant documents – letters,

newspaper cuttings, council minutes and so on. He or she will be seeking to establish what the true facts are, and whether those facts show that the councillor may have breached the Code of Conduct. Both you and the councillor complained of are entitled to introduce the investigator to people who witnessed the events in question. All witnesses' statements and evidence will be incorporated into the investigator's report and may become public documents.

What happens to the report?

The investigator's report is given to the Monitoring Officer who has to decide whether she accepts the findings. She can ask for further investigation if she is not satisfied with it. Once she is satisfied, she will adopt the report as her own and refer it to a full meeting of the Standards Committee. They will consider whether to accept the report and what action needs to be taken next. This could be one of three things:

- to accept a finding that there has been no breach of the Code;
- to refer the complaint for an oral hearing before members of the Standards Committee or
- to refer the complaint for determination by Standards for England's national adjudication tribunal (this only in the most serious cases, where the Standards Committee feel that their powers to impose a sanction may not be sufficient).

What happens in a hearing?

A hearing is a formal affair, conducted in public, which should take place within three months after the investigation report was considered. The Monitoring Officer will try to establish before the hearing where the areas in dispute lie, so that the Committee can concentrate on those. Both the councillor (or his or her representative) and the investigating officer will be able to address the Committee, and call witnesses. You may be called upon to attend as a witness, but only if the investigating officer thinks it appropriate and necessary to allow the Committee to determine the true

facts. You may then be asked questions by the investigating officer, the councillor and any of the members of the Committee, although that will all be controlled by the chairman. You have no independent rights to address the Committee.

The Committee must determine what actually happened, and whether the councillor was in breach of the Code. If it finds he or she was not, that is the end of the matter. If it finds that they were, it may impose a sanction.

What sanctions can the Committee impose?

The sanctions available to the Standards Committee are:

- **censure**
- **restriction** for a period not exceeding six months of the member's access to the premises or use of the resources of the authority,
- **partial suspension** of that member for a period not exceeding six months (may be on conditions)
- **suspension** of that member for a period not exceeding six months (may be on conditions)
- that the member be requested to submit a **written apology** in a form specified by the standards committee
- that the member undertakes such **training** as the standards committee specifies
- that the member participates in such **conciliation** as the standards committee specifies

Is that the end of the matter?

Not quite. The decision after a hearing must be published in the local newspaper and on the relevant councils' websites, and the clerks to relevant councils notified (and of course if either of you did not attend the hearing, we have to tell you and the councillor concerned). If the Committee finds that the councillor was in breach of the Code, the councillor has a right of appeal to Standards for England's adjudication panel against either that finding, or any sanction imposed, or both.

This booklet is available electronically or in larger print.
Other formats may be made available.

For further information please contact the Monitoring
Officer on (01803) 861364 or write to her at:

Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE.