



**South Hams
District Council**

Standards Committee

Frequently Asked Questions

**for members who have had a complaint about
their conduct**

Produced by the Monitoring Officer, South Hams District Council

Someone has complained about my behaviour as a councillor. How come?

When you made your declaration of acceptance of office as a councillor, you also promised 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 would have had it imposed upon them by October 2007. You should ask your council clerk or administrator for a copy if you have not seen it.

If you want to see a copy of the Model Code, it is in a schedule to the Local Authorities (Model Code of Conduct) Order 2007. You can find it on the website of the Office of Public Sector information at:

http://www.opsi.gov.uk/si/si2007/uksi_20071159_en_1

Who has complained about me?

The Monitoring Officer will write you a letter and will tell you the name of the person who has complained, unless they have asked to remain anonymous.

How do I know what the complaint is about?

When a complaint first comes in, the Monitoring Officer will write to you to tell you briefly what the complaint is about. However, you will not get a copy of the 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 of South Hams District Council. The Standards Committee 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. The Assessment Sub-Committee will be drawn from the members of the Standards Committee (in rotation). 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-Committee is scheduled to meet every other Tuesday but will meet only if there is business to deal with. It sits at Follaton House.

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

No. The complainant 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.

When do I have my say?

You will get a chance to respond to the complaint, but only if the Assessment Sub-Committee thinks that there is a case for you to answer. If they refer the complaint for investigation, you will be interviewed by the investigator and if a breach is found, you will be entitled to an oral hearing. There is more about this below.

How soon will I know about their decision?

The Monitoring Officer must tell you what the decision is within five working days after the Sub-Committee' meeting but we aim to do it sooner than that.

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 the Complainant's 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 next 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 you; or conciliation between you and the complainant; 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.

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?

The complainant will be informed by letter. If the complaint lies against you as a town or parish councillor the Clerk to the relevant town or parish council will be informed about it, as will the County Solicitor if you are a County Councillor. **NB** If the complaint is about you as a County Councillor, then the County Council's Standards Committee will deal with it. After the Assessment Sub-Committee's decision there will be no public notice, 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, plus 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.

Can the complainant take things further?

If (and only if) the Assessment Sub-Committee decide to take no further action, the complainant 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. They consider the review afresh including all the material considered at the assessment stage and any new information the complainant may have submitted. They may 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 complainant, the town or parish council clerk and the County Solicitor (as appropriate) will be informed of the decision and its bare essentials will be published, but 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 complainant, 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 you may have breached the Code of Conduct. Both you and the complainant 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. You will be expected to say where you dispute the investigating officer's findings and name those whom you will be calling as witnesses. You can be represented by a lawyer - at your own expense - or (with the Committee's consent, which is unlikely to be withheld) by a lay representative.

Both you (or your representative) and the investigating officer will be able to address the Committee, and call witnesses. You may be asked questions by the investigating officer and any of the members of the Committee, although all that will be controlled by the chairman. The complainant may attend and may be called as a witness; they are not expected to address the Committee. After hearing from everyone, the Committee must determine what actually happened, and whether you were in breach of the Code. If it finds you were not, that is the end of the matter. If it finds that you 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 your access to the premises or use of the resources of the authority,
- your **partial suspension** for a period not exceeding six months (may be on conditions)
- your **suspension** for a period not exceeding six months (may be on conditions)
- that you be requested to submit a **written apology** in a form specified by the standards committee
- that you undertake such **training** as the standards committee specifies
- that you participate in such **conciliation** as the standards committee specifies

If the complaint is referred for a hearing, the Monitoring Officer will give you further advice and assistance at that time. You can also contact her for information at any time.

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 complainant).

Where can I appeal?

If the Committee finds that you were in breach of the Code, you have a right of appeal through Standards for England against either that finding, or any sanction imposed, or both. In that case you'll get more guidance.

What happens if I don't appeal but fail to comply with the sanction?

In that case you may be made the subject of a further complaint.

This booklet is available electronically or in larger print.

Other formats may be made available.

Please contact the Monitoring Officer on (01803)

861364 for further information.