



BABERGH DISTRICT COUNCIL AND MID SUFFOLK DISTRICT COUNCIL CODE OF CONDUCT COMPLAINTS PROCEDURE

Introduction

This procedure applies when a complaint is received regarding a Councillor, either elected or co-opted, of Babergh or Mid Suffolk District Council or any town / parish council within these districts. This procedure strictly relates to complaints concerning a Councillor's alleged failure to comply with the adopted code of conduct.

Making a Complaint

Complainants are **required** to complete an official complaint form when raising an issue about a Councillor's behaviour with the Monitoring Officer. This form can be found at the following links:

<https://babergh.gov.uk/w/complain-about-a-councillor>

<https://midsuffolk.gov.uk/w/complain-about-a-councillor>

In exceptional circumstances where the complainant cannot complete the official form, complaints may be submitted in writing by either email or post. Please note that the Monitoring Officer may not always consider complaints that are not submitted through the official form.

monitoring.officer@baberghmidsuffolk.gov.uk

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Anonymity and Confidentiality

As per the Local Government Association's guidance for code of conduct complaints handling, the following definitions apply. An **anonymous** complaint means that the complainant is not known to the Monitoring Officer. A **confidential** complaint means that the complainant's details are supplied, but not disclosed during the investigation at the request of the complainant and the discretion of the Monitoring Officer.

The Monitoring Officer will not normally consider anonymous complaints, except in circumstances where doing so will not obstruct the complaints process.

If the Monitoring Officer determines that the complainant's identity should be made confidential, this decision will be kept under review during the handling process. If this confidentiality request is refused, the Monitoring Officer will offer the complainant the option to withdraw their submission rather than proceed with their identity being disclosed.

The Handling Process

The below section outlines the handling process followed upon receipt of a code of conduct complaint form. A flowchart summarising this process can be found under Appendix A.

1. Acknowledgement

The Monitoring Office will normally acknowledge the complaint within five working days of receipt and will advise if the complaint is applicable for initial assessment.

The complaint may be rejected upon receipt if it, for example:

- does not relate to the conduct of a councillor;
- regards service provision or procedural/governance issues;
- relates to the conduct of a Member prior to their election/co-option to office;
- is against the Council as a whole;
- concerns a Member outside of the District Councils' area;

2. Initial Assessment

The Monitoring Officer will review the complaint and determine if the matter merits further investigation, or whether the complaint can be rejected or resolved informally. The Monitoring Officer may seek the views of an Independent Person at this stage to aid consideration.

Independent Persons are people who are neither Councillors nor officers of the authority, but are appointed under Section 28 of the Localism Act 2011 to work with the authority to support them with code of conduct complaints and standards issues.

This initial assessment will normally be conducted within 20 working days of receipt of a complaint. A complaint may be rejected by the Monitoring Officer:

- If the complaint is the same, or substantially the same, as a complaint previously dealt with;
- If the period since the alleged behaviour is so significant that it is considered to be inequitable, unreasonable, or otherwise not in the public interest to pursue (normally complaints that are more than 12 months old);
- If the complaint is deemed trivial or 'tit for tat';

- If the complaint discloses such a minor or technical breach of the Code that it is not in the public interest to pursue;
- If the member against whom the allegation has been made has already remedied or made reasonable endeavours to resolve the matter;
- If the complaint is about a person who is no longer a member of a relevant council, or the alleged behaviour occurred at a time where the individual was not in public office.

This is not an exhaustive list of reasonings for dismissal. It is at the discretion of the Monitoring Officer to determine whether or not the complaint will be escalated further through the process.

If the complaint is rejected at this stage, the complainant will be advised of the decision. There is no right of appeal against this decision. The Monitoring Officer will consider whether it is appropriate to inform the subject member and/or the parish clerk (if applicable) that a complaint has been made and of the rejection.

If the complaint passes initial assessment, the Monitoring Officer will determine whether the complaint should be dealt with by informal resolution or if a formal investigation is required.

3a. Informal Resolution

Where possible, the Monitoring Officer will resolve complaints. Where the Monitoring Officer has a conflict of interest in determining a complaint, the Deputy Monitoring Officer or a Monitoring Officer from another authority shall be asked to provide a resolution. When referring to another authority, referral must be sought within 10 working days of completion of the initial assessment.

The subject member will be sent a copy of the complaint and asked to make a written representation in response to the Monitoring Officer within 15 working days of receipt. This response will be taken into account when making a determination on the complaint. The Monitoring Officer may choose to delay this if it is judged that doing so could risk the complainant being intimidated, or evidence destroyed.

If deemed necessary, the Monitoring Officer may seek out additional information from the complainant, or from other councillors / members of the public, to reach a full and thorough determination.

If the Monitoring Officer considers, after consultation with the Independent Person, that there has been a breach of the code of conduct then a resolution shall be advised. Some resolutions may include, for example:

- Advising the subject member about matters relating to code of conduct;
- Arranging training for the subject member;
- Advising the subject member to apologise, either verbally or in writing;
- Arranging mediation between the subject member and the complainant;
- Or another course of action the Monitoring Officer deems appropriate.

The Monitoring Officer will report with full reasons the outcome of the complaint to the complainant, subject member, and the Clerk of the town / parish council or the relevant group leader(s), if appropriate. The Monitoring Officer will seek to do this within 15 working days of receipt of the subject member's response, but may take longer depending on the complexity of the complaint and the availability of the Independent Persons.

If a sanction has been determined, the Monitoring Office will seek confirmation that the resolution has been complied with within the designated timeframe.

If the Monitoring Officer is unable to resolve the complaint, or the subject member does not comply with the sanctions designated, the complaint will be referred to the Suffolk Joint Standards Board for further consideration.

3b. Formal Investigation

Where, in the opinion of the Monitoring Officer after review of the complaint, a formal investigation is required, the Monitoring Officer will appoint a designated Investigating Officer to investigate the complaint. This involves 'handing over' communication with the complainant and subject member, gathering further evidence, and preparing a report.

The Monitoring Officer will review the Investigating Officer's report and, after consulting with the Independent Person, will then determine:

- That there has been no breach of the Code of Conduct;
- To resolve the complaint under a standard Monitoring Officer resolution;
- To refer the report to the Suffolk Joint Standards Board for decision;
- Or suggest another course of action that would be appropriate.

The Monitoring Officer will report with full reasons the outcome of the complaint to the complainant, subject member, and the Clerk of the town / parish council or the relevant group leader(s) if appropriate.

ADDITIONAL NOTES

Right of Appeal

There is no right of appeal against the Monitoring Officer's determination of a code of conduct complaint. However, if a complainant is unhappy with the way the Monitoring Officer has followed this procedure when handling the complaint, they are entitled to raise this with the Local Government Ombudsman.

Suffolk Joint Standards Board

When a Joint Standards Board Hearing is required, the complaint subject will be informed of the hearing date and the appropriate arrangements. This meeting is held in private session, as it relates to an individual, but the Board's decisions will be published publicly and reported at the town or parish council meeting, if applicable.

The subject member can request to bring additional material or witnesses to present at this meeting, however it must be directly related to the complaint, witnesses must be named in the evidence already considered, and members of the Board have complete discretion as to whether this material / witness is heard.

The actions that may be taken by the Board at the determination of a complaint may include, for example:

- Publish full findings in respect of the subject member's conduct;
- Report its findings to the town / parish council for information;
- Recommend that the subject member be formally censured;
- Recommend to the subject member's group leader that the subject member be removed from any or all committees and sub-committees of the council;
- Recommend to the subject member's group leader that the subject member be removed from the Cabinet, or removed from any portfolio responsibilities;
- Recommend that the subject member should not be appointed and/or removed from all outside bodies to which they have been appointed to by the Council;
- Instruct the Monitoring Officer to arrange appropriate training;
- Withdraw facilities provided to the subject member by the Council (such as computer, email access etc.) and/or exclude the subject member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending committee meetings.

Publication of Decision Notices

Code of conduct complaints are dealt with confidentially and, as such, the complainant and the complaint subject are required to not share details of the complaint whilst the investigation is ongoing.

In the case of a complaint undergoing a **full investigation**, the decision notice will be published on the Council's website unless the Monitoring Officer determines that the notice should remain confidential or that it contains exempt information.

What constitutes bullying and / or harassment?

Within the complaint, complainants usually self-define what they mean by bullying and harassment, in relation to the behaviour they are being subject to. Usually, something has happened to them that is unwelcome, unwarranted, and causes detrimental harm.

Bullying, in accordance with the ACAS Bullying and Harassment at Work Guidance (June, 2014), may be characterised as: offensive, intimidating, malicious or insulting behaviour, or an abuse/misuse of power through means that undermine, humiliate, denigrate, or injure the recipient.

Harassment, as defined in the Equality Act (2010), is unwarranted conduct related to a relevant, protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that individual.

This procedure comes into force on 10th February 2025 and will apply to all new complaints received after this date.