How to make a complaint

A guide to making a complaint about a councillor of either the District, Town or Parish Councils within the area of Dover District

Councillors are elected by the general public to represent the constituents of a Ward. Each Council has its own Code of Conduct to which councillors must adhere. Councillors should conduct themselves in a way that is beyond reproach. However, if you believe that a councillor has breached the Code of Conduct, this leaflet explains how to make a complaint and how your complaint will be dealt with.

The District Council takes all complaints seriously, and it is our experience that many complaints can be resolved quickly and effectively on an informal basis. Our complaints team would welcome the opportunity to help put things right for you at an early stage without the need for a formal complaint. Please contact Sue Carr, Corporate Complaints and Resilience Officer, Dover District Council, telephone (01304) 872322 to discuss your complaint further.

HOW TO MAKE A COMPLAINT

If our complaints team cannot address the problem for you, the law gives you the right to make a formal complaint. To do this, you need to send your complaint, either in writing using the form accompanying this leaflet or the form can be downloaded from the Council’s website [www.dover.gov.uk](http://www.dover.gov.uk) and sent, marked confidential, to The Monitoring Officer, c/o The Corporate Complaints and Resilience Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Please ensure that when submitting your complaint you provide sufficient information for The Monitoring Officer (acting in consultation with the Independent Person) to determine whether an investigation or other action is warranted.

WHO YOU CAN COMPLAIN ABOUT

You can complain about elected councillors, or co-opted members of all of the authorities within the Dover District listed below. (A co-opted member is a voting member of a council or one of its committees, who was appointed to their position rather than being elected.)

The councils we cover are:

- Dover District Council
- Deal Town Council
- Dover Town Council
- Sandwich Town Council
- Alkham Parish Council
- Ash Parish Council
- Aylesham Parish Council
- Capel-le-Ferne Parish Council
- Denton-with-Wootton Parish Council
- Northbourne Parish Council
- Preston Parish Council
- Ringwould-with-Kingsdown Parish Council
- Ripple Parish Council
- River Parish Council
- St Margaret’s-at-Cliffe Parish Council
- Shepherdswell-with-Coldred Parish Council
- Eastry Parish Council
- Eythorne Parish Council
- Goodnestone Parish Council
- Great Mongeham Parish Council
- Guston Parish Council
- Hougham Without Parish Council
- Langdon Parish Council
- Lydden Parish Council
- Nonington Parish Council
- Sholden Parish Council
- Staple Parish Council
- Stourmouth Parish Council
- Sutton-By-Dover Parish Council
- Temple Ewell Parish Council
- Tilmanstone Parish Council
- Walmer Parish Council
- Whitfield Parish Council
- Wingham Parish Council
- Woodnesborough Parish Council
- Worth Parish Council

We can only consider complaints about individual councillors or members. We cannot consider complaints about the council as a whole or about people employed by it.

### ABOUT THE CODE OF CONDUCT

Each council has adopted its own Code of Conduct. If you would like a copy of a particular council's Code of Conduct please contact that council direct.

### WHAT YOU CAN COMPLAIN ABOUT

You can complain about a councillor breaking any part of their council's Code of Conduct. This usually includes:

- bullying and intimidation
- doing something to prevent those who work for the council from being impartial
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or council
- using their position improperly, to their own or someone else's advantage or disadvantage
- misusing the council's resources
- allowing the council's resources to be misused for the activities of a political party
- failing to register a Disclosable Pecuniary Interest
- failing to disclose a Disclosable Pecuniary Interest or an Other Significant Interest at a meeting
- taking part in a meeting or making a decision where the councillor has a Disclosable Pecuniary Interest or an Other Significant Interest
- failing to register any gifts or hospitality they have received in their role as a councillor, worth over £100

### WHAT WE CANNOT INVESTIGATE

Arrangements adopted by the Dover District Council set out the types of behaviour that can be investigated. There are some complaints that cannot be investigated, including:

- complaints where a councillor is not named
- complaints that are not in writing
- acts carried out in a councillor's private life when they are not carrying out the work of the council
- incidents or actions that are not covered by the Code of Conduct
- incidents that are about a fault in the way the council has or has not done something – this is something that may be dealt with by a different complaint procedure
- complaints about people employed by local councils – this would be dealt with by the employer
- incidents that happened before a councillor was elected
- incidents that happened either before the authority adopted its local Code of Conduct
- complaints about the way in which the council conducts and records its meetings.

### BEFORE YOU COMPLAIN

Before you send us your complaint, you should be aware that we are unlikely to be able to keep your identity confidential from the person about which you are making the complaint.

In the interests of fairness and natural justice, we believe councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint.

Details of the complaint will be given to:

- the Monitoring Officer of Dover District Council and his staff in order to handle the matter
- the councillor(s) you are complaining about
- the parish or town clerk (if applicable)

We will give them full details of your complaint where 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 5 of the complaint form.
We are unlikely to withhold your identity or the details of your complaint unless that the Monitoring Officer believes that there are reasonable grounds for believing that the Complainant or any other person (eg a witness):

- is either vulnerable or at risk of threat, harm or reprisal;
- may suffer intimidation or be victimised or harassed;
- works closely with the Subject Member and are afraid of the consequences, eg fear of losing their job;
- suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing District or Parish Council service provision or any tender/contract they may have with or are about to submit to the District or Parish Council.

OR where early disclosure of the complaint:

- may lead to evidence being compromised or destroyed; or
- may impede or prejudice the investigation; or
- would not be in the public interest.

Details in support of your request to withhold your identity will be required for consideration by the Monitoring Officer (acting in consultation with the Independent Person). Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer (acting I consultation with the Independent person) 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.

WHAT HAPPENS TO YOUR COMPLAINT?

When we receive your complaint, we will write to you to let you know that we have received it. Your complaint will then be referred to the Monitoring Officer. The Monitoring Officer (acting in consultation with the Independent Person) will decide either to:

- Not to refer the complaint for investigation; or
- To refer the complaint for investigation; or
- To apply the informal resolution process either before or after an investigation; or
- Following Investigation; to refer the complaint to the Hearing Panel; or
- To take no action and close the matter; or
- To refer the complaint to the relevant political group leader for action.

In assessing your complaint the Initial Assessment Sub-Committee will use the following and criteria:

- **Legal jurisdiction criteria test:**
  - Did the alleged conduct occur before the adoption of the Code of Conduct?
  - Was the person complained of a member of the District or Parish Council at the time of the alleged conduct?
  - Was the person complained of acting in an official capacity at the time of the alleged conduct?
  - Did the alleged conduct occur when the person complained of was acting as a member of another authority?
  - If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
  - The complaint is about dissatisfaction with the District or Parish Council’s decisions, policies and priorities, etc.

If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer’s decision.

- **Local assessment criteria test:**

  If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

  - The complaint is a ‘repeat complaint’, unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;  
  - The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
– No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
– The complaint is malicious, trivial, politically motivated or ‘tit-for-tat’;
– The Complainant is unreasonably persistent, malicious and/or vexatious;
– The alleged misconduct happened more than 3 months ago;
– The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers’ and Members’ time;
– The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
– The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
– The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
– The complaint is about a deceased person;
– The complaint is about a person who is no longer a District or Parish Councillor or Co-opted Member.

If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer’s decision.

You will be kept advised as to decisions taken and progress on your complaint.

THE INVESTIGATION

If the Monitoring Officer (acting in consultation with the Independent Person) refers your complaint for investigation you will have an opportunity to provide the investigator with any further detailed information or documents that you consider to be relevant, so therefore please avoid sending us large amounts of background information with your complaint.

At the end of an investigation the Monitoring Officer will, having consulted with the Independent Person, decide whether there is evidence of a failure to comply with the Code of Conduct. He will either:

• take no action or
• seek informal resolution or
• refer the matter for consideration by the Hearing Panel

A Hearing Panel is a panel made up of councillors of the District Council. The Hearing Panel can decide if there has been a breach of the Code, and if so what sanction to recommend.

Additional Help

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. However, we recommend that you always try to find a friend or relative who can speak or read English to help you with your enquiry initially. This will help both you and us to deal with your needs more effectively.

If you need advice or any support in completing this form, please contact Sue Carr, Corporate Complaints and Resilience Officer, telephone (01304) 872322 as soon as possible or contact your local Citizens Advice Bureau, Law Centre or other advice centre.