

Complaints under Members' Code of Conduct

Guidance note

This guidance note explains the procedure for making a complaint that a member of Cheshire West and Chester Borough Council, or a member of a parish or town council in our area, has failed to comply with the Code of Conduct.

It will help you decide if your complaint can be dealt with under the Council's 'arrangements for dealing with standards complaints'. These local arrangements were agreed by the Audit and Governance Committee. Complaints are considered in the first instance by the Council's Monitoring Officer.

The Monitoring Officer can only deal with complaints about the behaviour of one or more individual members. The procedure does not cover complaints which do not relate to the Members' Code of Conduct. "Member" means an elected councillor as well as an appointed or co-opted member. The Code does not apply to council employees.

If your complaint is not about a member's conduct, you may wish to complain to the Council through its 'Comments, Compliments and Complaints' procedure. More information about making a complaint under this procedure is available on request.

1. Can the Monitoring Officer deal with my complaint?

The following questions should help you decide if your complaint can be dealt with by the Monitoring Officer. If you are still unsure or require any further guidance, please contact the Monitoring Officer on 01244 975970 or Legal Services on 01244 972209.

a) Is your complaint about a member of Cheshire West and Chester Borough Council or a member of a parish or town council in our area?

A list of parish or town councils in the Cheshire West and Chester area is available on request. If your complaint is not about the behaviour of a member of Cheshire West and Chester Council, or a member of a parish or town council within our area, then it cannot be considered under these arrangements.

b) Is your complaint about:

- **dissatisfaction with a decision or action of the authority or one of its committees**
- **a service provided by the authority;**
- **the actions of someone employed by the authority, or**
- **the authority's procedures**

If your complaint is about any of these, the Monitoring Officer cannot consider your complaint. However, you may wish to complain through the Council's 'Comments, Compliments and Complaints' procedure or, where appropriate, contact the relevant town or parish council's clerk.

2. How should I set out my complaint?

It is very important that you set out your complaint fully and clearly and provide all the information at the outset. You should also provide any documents or other material that you wish the Monitoring Officer to consider.

You can make your complaint by completing a Code of Conduct complaint form.

Alternatively you can make your complaint in writing in the following ways.

- Email: cwacmonitoringofficer@cheshirewestandchester.gov.uk
- By post: Monitoring Officer, Cheshire West and Chester Council, 4 Civic Way
Ellesmere Port, CH65 0BE

Whether you fill in a Code of Conduct complaint form or make your complaint by letter or email, you should provide the following information.

- The name of the member you believe has failed to comply with their council's Code of Conduct
- What the member has done and why you consider that their behaviour breaches the Code of Conduct. If possible, you should state which paragraph(s) of the Code you believe have not been followed and if you are complaining about more than one member you should clearly explain what each individual has done.
- Specific details, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.

- Dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- Whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- Any relevant background information.
- Whether you would like to ask that the member you are complaining about should not be provided with details of your identity.

Although you are not required to prove your complaint, you should have reasonable grounds for believing that the member complained about has failed to comply with their council's Code of Conduct.

3. Are my details confidential?

The Monitoring Officer is unlikely to withhold your identity or the details of your complaint unless he/she has good reason to believe that:

- you are either vulnerable or at risk of threat, harm or reprisal;
- you will suffer intimidation or be victimised or harassed;
- you work closely with the person you are complaining about and you are afraid of the consequences e.g. fear of losing your job;
- you suffer from a serious health condition and there are medical risks associated with your identity being disclosed (the Monitoring Officer will need to be provided with medical evidence to support this);
- early disclosure of your complaint may lead to evidence being compromised or destroyed;
- early disclosure of your complaint may impede or prejudice the investigation; or
- early disclosure of your complaint is not in the public interest.

Please note that requests for confidentiality will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. The Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, the Monitoring Officer will usually allow you the option of withdrawing your complaint.

It is important to understand that in certain exceptional circumstances where the matter complained about is very serious, the Monitoring Officer can proceed with an investigation or other action and disclose your name even if you have expressly asked him not to.

4. What happens once I submit my complaint?

The Monitoring Officer will consider the complaint and if appropriate consult the Independent Person * before making a decision whether to:

- a) take no action
- b) arrange other action e.g. training or mediation
- c) refer the matter to the relevant group leader or parish /town council chairman as appropriate for informal action
- d) arrange a formal investigation of the complaint
- e) refer the matter to the police or other relevant regulatory agency.

The Council has agreed criteria to assist the Monitoring Officer in making an initial assessment of a complaint and deciding what action, if any, to take.

When the Monitoring Officer has reached a decision, they will notify you in writing. At the same time as the Monitoring Officer writes to you, they will also write to the member you have complained about and the parish or town clerk (if applicable).

If the Monitoring Officer decides to take no further action on your complaint, there is no right to have the decision reviewed.

The Monitoring Officer will normally make their decision within 15 working days of receipt of the complaint.

* The Independent Person is a person who has been appointed under the Localism Act 2011 by the Council to be consulted where appropriate on standards complaints.