



How to make a complaint about a District, Town or Parish Councillor in South Holland.

Guidance

This document explains how to make a complaint if you are unhappy about the behaviour of an elected Councillor or co-opted Member (both referred to as 'Members' in this document) of South Holland District Council or a Town or Parish Council.

It also explains:-

- What you can complain about;
- What will happen to your complaint.

Code of Conduct

South Holland District Council has adopted a Code of Conduct for its members, which is available for inspection on the authority's website www.sholland.gov.uk and on request from the Council Offices.

Each town / parish council is also required to adopt a Code of Conduct. If anyone wishes to inspect a town / parish council's Code of Conduct, they should visit any website operated by the town / parish council or request the town / parish clerk to allow inspection of the relevant Code of Conduct.

How to make a complaint

Your complaint needs to be made in writing using the Councillors' Code of Conduct Complaint Form. The form can be found on the Council's website at www.sholland.gov.uk. If you do not have access to a computer a form may be obtained by contacting Democratic Services on 01775 764626 or standards@sholland.gov.uk.

Once completed please send your complaint form together with any documents that support your complaint to

The Monitoring Officer
Democratic Services
South Holland District Council
Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

or email: standards@sholland.gov.uk

The following sections of this document are intended to help you make sure you are sending us all the information we need.

If you cannot write your complaint in English, we can arrange to have it translated for you.

If you have any questions about the form, please contact the Monitoring Officer in writing.

What we cannot investigate

There are some complaints we will not investigate as a Councillor Code of Conduct complaint, including:-

- Complaints where a Member is not named;
- Complaints that are not in writing;
- Incidents or actions that are not covered by the Code of Conduct;
- Incidents that are about a fault in the way the Council rather than an individual member has or has not done something.
- Matters relating to the policies or performance of the Council generally. This is known as maladministration and may be a matter for the Local Government Ombudsman (www.lgo.org.uk); but should first be sent to us under our Corporate Complaints process at www.sholland.gov.uk.
- Complaints about employees;
- Incidents that happened before a Member was elected.
- Matters which occurred when the Member was not acting in their official capacity as a member.

The Complaint Form

Section 1 – Your contact details

- Please provide your full name, address, contact telephone number and E-mail address if you have one.

Section 2 – About you

- Please tell us whether you are complaining as an Officer of the Council, member of the public etc.

Section 3 – Details of the Member you are complaining about

You can complain about Members of South Holland District Council, or members of a Town or Parish Council within the district of South Holland. A full list of current Council Members are available on the Council's web page at www.sholland.gov.uk.

Section 4 – What you can complain about: breach of the Code of Conduct.

You can complain about a Member breaking any part of their Council's Code of Conduct for Members. A copy of the Code of Conduct for South Holland District Council Members can be found on the Council's website www.sholland.gov.uk. Each Town and Parish Council has its own Code of Conduct. The majority are the same or based on the District Council's Code but you will need to consider the provisions of the Code of the relevant Town or Parish Council before completing the form. Copies of the relevant codes can be found on the South Holland District Council Website, or alternatively contact the relevant Town or Parish Clerk to obtain a copy of the Code adopted by that Council.

Evidence

If you believe a Member has breached their Code of Conduct, please attach any evidence that you feel is relevant to your complaint. For example, details of any witnesses or copies of relevant documents. We can only consider a complaint on the evidence that has been provided or made available to us.

Section 5 – Confidential information

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We will usually give them a copy of the complaint. We are unlikely therefore to withhold your identity or the details of your complaint unless the Monitoring Officer is of the opinion that it is in the public interest to do so. For example, where the disclosure of your personal details may result in the evidence being compromised or destroyed by the subject Member, or if there is a real possibility of intimidation of the complainant or witnesses by the Subject Member.

What happens to your complaint?

When you submit your complaint we will write to you to let you know we have received it. We will give you our summary of what we consider the key issues to be. We will also tell the member that you are complaining about that we have received your complaint and the relevant part(s) of the Code of Conduct that it is alleged may have been breached.

The Monitoring Officer will then consider your complaint and decide whether it should be progressed. If it is progressed, it may be referred for investigation or other action. As part of this process the Monitoring Officer will consult the District Council's Independent Person for their views on the merits of the complaint. If the complaint is not progressed, we will write to you giving our reasons.

Failure to register or declare a Disclosable Pecuniary Interest

A Disclosable Pecuniary Interest is an interest that is defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. These include (but are not limited to) interests such as paid employment, sponsorship, contracts, land and securities. When there is a failure to declare a Disclosable Pecuniary Interest or where there is other evidence of criminality then we may refer the complaint to the Police

What is meant by 'Other Action'

The Monitoring Officer may decide to refer your complaint for 'other action'. This is a broad term that may include options such as seeking an agreed resolution, which might involve the member giving an apology or attending mediation.

What factors will be taken into account in deciding what to do with your complaint?

The Monitoring Officer may take the following into account in deciding whether to investigate the complaint:

- is this a matter for the police?
- is the matter serious enough to warrant the time and expense of further investigation?
- does the complaint appear to be politically motivated?
- does the complaint appear to be malicious, vexatious or repetitive?
- is it about something that happened so long ago that there would be little benefit in taking action now?
- is the outcome, including the availability of any likely sanction sought by the complainant, one that the Authority is empowered to deliver?
- if proven, would a finding of breach of the Code assist the Authority in its duty to promote and maintain high standards of conduct?
- had the Member acted on the advice of an officer or the Independent Person in relation to the conduct complained of?
- did the conduct arise from lack of experience or training?
- had the Member apologised for the conduct or was he or she willing to apologise?
- is the subject matter of the complaint being dealt with through any other complaints, legal or regulatory process?

Please note: There is no provision for appeal or review of this decision not to investigate the complaint further, but reasons for the decision will be provided.

If a conflict of interest arises the Monitoring Officer or the Independent person may consult an Independent third person.

Investigation

If your complaint is investigated we will write to you and inform you of the timescales for completing the investigation. You will also have an opportunity to provide the investigator with any further information or documents that you consider relevant. If the complaint relates to a parish councillor, depending on the nature of the allegation, in the first instance we may ask the parish council to assist with the investigation by locating and providing evidence. Responsibility for the investigation and the final decision on the outcome of the complaint will remain with the Monitoring Officer. The Monitoring Officer may delegate an investigation to any South Holland District Council officer, and may also commission an investigation by an external investigator.

At the end of an investigation

If the conclusion of the investigation is that there has been no breach of the Code and the Monitoring Officer considers that this is a reasonable conclusion, the Monitoring Officer will write to you and the person complained about to inform you that there will be no further action.

There is no provision for appeal or review of this decision but reasons for the decision will be provided.

If the investigation concludes that there is evidence of a breach of the Code then the Monitoring Officer will consult the Independent Person and make a decision either to:-

- resolve the matter without the need for a hearing or
- To convene a meeting of the Council's Hearing Panel to hear the matter.

If a hearing takes place and concludes that there has been no breach of the Code then that is the end of the matter. There is no provision for appeal or review of that decision.

If the hearing concludes that there has been a breach of the Code the panel will consider whether and what sanction it might be appropriate and proportionate to impose on the member found to be in default.

These are as follows:-

- Publication of findings.
- Report to a meeting of the District Council in respect of a district councillor.
- Report to a meeting of the Parish Council in respect of a parish councillor

- Recommendation to the subject member's Political Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) to remove the member from membership of Committees or Sub-Committees.
- Recommendation to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- Require the member to undergo training.
- Recommendation of removal of the member from external nominations or appointments.

Where a complaint proceeds to a formal hearing, the Monitoring Officer and/or the Deputy Monitoring Officer may arrange for such hearing to be conducted by another local authority where this is considered, in all the circumstances, to be in the interests of fairness. The Monitoring Officer or Deputy Monitoring Officer will always consult with the Chairman of the Council's Standards Panel before making such arrangements.

Similarly, the Monitoring Officer and Deputy Monitoring Officer may agree to South Holland District Council's Hearing's Panel making final determinations on complaints against a member of another local authority. The Monitoring Officer or Deputy Monitoring Officer will always consult with the Chairman of the Council's Standards Panel before agreeing to such arrangements.

Please Note: In respect of certain sanctions against parish councillors (such as removal from committees and removal from external appointments), the Hearing Panel can only make a recommendation to the Town/Parish Council. Town/Parish Councils will be under no obligation to accept any such recommendation – though they are under a duty to maintain high standards of conduct and must have regard to that duty when considering any recommendation of the Council. They will also be bound by the Monitoring Officer's determination of whether there has been a breach of the Code of Conduct as stated above.

Revision of these Arrangements

The Council may by resolution agree to amend these arrangements

Appeals

There is no right of appeal either as the complainant or the subject member against a decision of the Monitoring Officer or of the Hearings panel.

If it is felt that the authority has failed to deal with the complaint in accordance with these arrangements, a complaint can be made through the Corporate Complaints procedure (www.sholland.gov.uk) or the Local Government Ombudsman (www.lgo.org.uk)