



COMPLAINT FORM – Breach of Code of Conduct by District, Parish or Town Councillor

Note that:

A copy of this form will be retained for up to 6 years after the complaint has been handled. Your name and the details of the complaint will be provided to the Councillor that is subject to the complaint – unless there are exceptional circumstances*¹ not to do so. In the event that you wish to keep your details confidential, and it is not, in the opinion of the Monitoring Officer² practical to do so and deal with the complaint, then the Authority may be unable to process your complaint further.

Otherwise, your name and details are likely to be released and copies of any documents you provide, may be supplied to a person who requests information relating to this complaint under the Freedom of Information Act 2000 or the Data Protection Act 1998. If the matter is dealt with at a hearing, then your name and the complaint is likely to be in public documents at the hearing and on the Council's website.

The following will specifically be made aware that you have made this complaint and receive copies of this complaint/ accompanying information and any other documents you subsequently supply (unless there are exceptional circumstances* not do so):

- the Councillor(s) you are complaining about
- the Parish or Town clerk (if applicable)

If this complaint is about a Town or Parish Councillor, and you have not already made a complaint to the Town or Parish, then this will usually be referred to the Town or Parish Clerk for the Parish or Town Council to consider under their complaints procedure. This does not prevent you from making a complaint to the District Council, once the complaint has been considered by the Town or Parish Council. However, any action by the Town or Parish Council will be taken into account by the District Council in its decision on whether to take any further action on the complaint.

Note also that if this is a complaint that a Councillor has committed an offence under section 34 Localism Act 2011, or any other criminal act whilst acting or purporting to act as a Councillor, then this will be referred to the Police and shall not be referred back to the Town or Parish Council or dealt with under the District Council's complaint handling procedure (as this may prejudice any action that the Police may take).

1. Your details

Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	

¹Reasonable grounds for believing that: they will be at risk of physical harm or losing their job if this information is disclosed. Or this allegation is about potential criminal action by the Councillor (whilst acting or giving the impression of acting) as a Councillor, and such disclosure may prejudice any Police action.

² In all cases, reference to Monitoring Officer may also relate to the Deputy Monitoring Officer undertaking this role.

Email address:	
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2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted Councillor of an Authority
- Member of Parliament
- Council officer local authority employee
- Other – please specify()

3. Equality monitoring questions

East Cambridgeshire District Council is committed to providing equal opportunities for all and eliminating discrimination, both in the provision of its services and in our role as an employer. Please complete the separate page attached (Appendix A) at the back of this form, which will be used for monitoring purposes only. It may form part of general statistical information used for the Council's equality monitoring.

4. Making your complaint

The likely process for the complaint and criteria that will affect this consideration are detailed in Appendix B. This is for your information and should not be returned with the complaint form.

5. Please provide us with the name of the Councillors you believe have breached their Authority's Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name

6. Please explain in this section (or on separate sheets) what the Councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one Councillor, you should clearly explain what each individual has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer, so that the Monitoring Officer can decide whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Councillor said or did. For instance, instead of writing that the Councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

7. Only complete this next section if you believe there are exceptional circumstances for keeping your identity confidential

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/ and what they have said. We also believe they have a right to be provided with the complaint and any accompanying information so they can provide a response for an initial assessment of the complaint. We are unlikely to withhold the complaint and accompanying information unless there are exceptional reasons to keep this information confidential, for example reasonable grounds for believing that you:

- will be at risk of physical harm or
- losing your job if this information is disclosed. Or
- this allegation is about potential criminal action by the Councillor (whilst acting or purporting to act) as a Councillor, and such disclosure may prejudice any Police action³.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer 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.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint. Continue on a separate sheet if there is not enough space on this form:

8. Additional Help

Complaints must be submitted in writing. This includes fax and electronic submissions.

³ Note that in relation to those complaints, these are likely to be referred to the Police and your details may then be released by the Police.

If you have any queries concerning the completion of the form, or subsequently about the complaint, you can contact the Monitoring Officer.

Please submit a copy of this form and Appendix A to:

Maggie Camp, Monitoring Officer
East Cambridgeshire District Council

The Grange

Nutholt Lane

Ely, Cambs CB7 4EE

Fax: 01353 668803

Email: maggie.camp@eastcambs.gov.uk

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. If you need any support in completing this form, please let us know as soon as possible.

You can do that/ request large print, or Braille, or help, translation services by contacting Democratic Services on 01353 665555.

9. Declaration and signature:

I believe that the facts stated in this complaint form are true:

Signature⁴:	
Date:	

⁴ An electronic signature will be accepted.
Councillor Complaint form 04/2016

Equality Monitoring form

Appendix A

Complaints against Councillors			
ETHNIC ORIGIN – please indicate which ethnic group you consider yourself to belong to:			
White British			
Irish			
Mixed White and Black Caribbean			
White and Black African			
White and Asian			
Asian or Asian British Indian			
Pakistani			
Bangladeshi			
Black or Black British Caribbean			
African			
Traveller/Gypsy Irish Traveller			
Gypsy/Roma			
Chinese, other ethnic group Chinese			
Other, please specify:			
GENDER			
Male			
Female			
DISABILITY			
Do you consider yourself to have a disability?			Yes/ No
AGE		RELIGION (What is your religious belief?)	
0-16		Buddhist	
17-24		Christian	
25-39		Hindu	
40-49		Jewish	
50-59		Muslim	
60-74		Sikh	
75-84		Other	
85+		Decline to state	
DATA PROTECTION ACT 1998			
Information you provide on this form may be held in our computer or manual records. The information is held for the purposes of equality of the complaint system/ general equality monitoring. We may pass your information to any legal or regulatory body if required to do so. The information will be kept for a period of 6 years from the date of the complaint being determined and then destroyed.			

Complaints handling/ criteria for rejecting

Any complaint should be on the relevant Councillor complaint form, signed by the complainant. When the Authority receives the complaint, then the form will be directed to the Council's Monitoring Officer. All supporting evidence should be forwarded with the complaint form. If this is a complaint about a Councillor's conduct, then:

Preliminary (within 5 working days):

- The Monitoring Officer will endeavour to acknowledge complaint within 5 working days/ can seek additional information/ supporting evidence if required.

Note that:

- If a complainant does not provide sufficient identifying details about him/herself, or information on the complaint, so that the complaint will be difficult to investigate, or take any other action, then the complaint is likely to be rejected.
- The Councillor who is subject to the complaint will (unless exceptional circumstances apply) be informed that a complaint has been received, and of your name).
- If this complaint is about a Town or Parish Councillor, and a complainant has not already made a complaint to the Town or Parish, then this will usually be referred to the Town or Parish Clerk for the Parish or Town Council to consider under their complaints procedure. This does not prevent a complainant from making a complaint to the District Council, once the complaint has been considered by the Town or Parish Council. However, if a complainant decides to pursue a further complaint on the same matter to the District Council, any action by the Town or Parish Council will be taken into account by the District Council in its decision on whether to take any further action on the complaint. The Town or Parish Council may refer a complaint to the District Council's Monitoring Officer if they demonstrate that it is not practical for them to deal with it.

Stage 1

- The Monitoring Officer will undertake an initial pre-assessment and consideration as to whether this complaint satisfies initial tests.

Note that likely criteria for rejection at this stage are:

- If the Councillor was not acting in their capacity as a Councillor, or giving the impression of doing so – then the complaint is likely to be rejected.
- If the Councillor is no longer a member of the Authority, or Parish/ Town Council within its area then the complaint will be rejected.
- If this is a complaint that a Councillor has committed an offence under section 34 of the Localism Act 2011, or any other criminal act whilst acting or giving the impression of acting as a Councillor, this will be referred to the Police *and shall not be referred back to the Town or Parish Council or dealt with under the District Council's complaint handling procedure* (as this may prejudice any action that the Police may take).
- If more specific information about the complaint is required, then the Monitoring Officer may write to request this before further determination of the complaint. If that occurs, then the complaint will not have been rejected at that stage, but will not proceed until this further information has been received. Subject to there being exceptional circumstances not to, any further information will be provided to the Councillor for comment. If this information is not provided, then the complaint is likely to be rejected.
- If there is no basis for rejecting then the complaint at this Stage, the Monitoring Officer will inform the Councillor subject to complaint and provide a copy of the complaint form and documents to them unless a complainant has demonstrated that exceptional circumstances apply and the Monitoring Officer has accepted that it is possible to progress the complaint anonymously. It will then progress to Stage 2.

Stage 2 (this Stage will be undertaken in consultation with an Independent Person

(‘IP’⁵):

- ❑ The Monitoring Officer will consider the complaint/ supporting information and any response provided by the Councillor subject to the complaint.
- ❑ If the complaint does not demonstrate a potential breach of the Code of Conduct, then it will be rejected.
- ❑ Complaints that appear to be very minor, trivial, tit for tat or politically motivated are also likely to be rejected.
- ❑ If the complaint is vexatious or malicious then the complaint is likely to be rejected.
- ❑ If the complaint relates to an incident that appears to have taken place over 3 months before the complaint was submitted, which may make it difficult to investigate the complaint, or unreasonable to take further action at this stage, then it is likely that the complaint may be rejected.
- ❑ If a similar complaint (to the facts/ or incident) has been submitted and has been subject to an investigation or other action relating to the relevant Code, then it is likely to be rejected.
- ❑ If the complaint been subject to an investigation by another regulatory body/ body and in the opinion of the Monitoring Officer nothing more would be gained by further action being taken, it is likely that no further action will be taken.

Stage 3

- ❑ The Monitoring Officer will confirm the decision with reasons to a complainant in writing and a copy will be sent to the Councillor that is subject to the complaint. The decision may be:
 - no further action;
 - proposal for informal local resolution (meeting, mediation or training); or
 - referral for investigation.
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- ❑ Stages 1-3 will usually take place within 20 working days – subject to further information being obtained.

Stages 4-6 (investigation/ consideration of any investigation report and final hearing will involve consultation with an IP⁶ and the final hearing a consultation with a Town/ Parish co-optee where applicable

- ❑ If a decision to investigate is taken, then a complainant and the Councillor subject to the complaint would both be expected to co-operate and assist with this investigation, including, although not limited to, providing witness evidence to an investigator/ attending a final hearing and answering questions at that hearing. Failure to do so may result in no further action.
- ❑ If the investigator finds no breach, then any report detailing this information will be considered by the Monitoring Officer in consultation with the IP. There is unlikely to be any further action. If the report discloses a potential breach, then the matter will be referred to a Hearings Panel before elected Councillors from this Authority.
- ❑ The Hearings Panel will consider the complaint in consultation with the IP (and in the case of complaint relating to a Parish or Town Councillor, a co-opted Parish or Town Councillor). The Hearing will (unless valid reasons Local Government Act reasons apply) be held in public session, where the press may also attend. A complainant (and the Councillor subject to the complaint) would be expected to attend any Panel Hearing where the complaint is considered (unless both a complainant and the Councillor who is subject to the complaint, agree that this can be dealt with as a paper hearing). Note that the IP and co-opted Councillors will not be entitled to vote on the decision, but will be consulted before the final decision is made. If the Panel finds that the Councillor has breached the Code of Conduct then possible sanctions are:
 - no action;
 - training and/or censure of the Councillor;
 - recommend censure at full Council.

⁵ As defined by s28(8) Localism Act 2011

⁶ Requirement for involvement under section 28(7) Localism Act 2011.

- where the decision relates to a Parish or Town Councillor, then the Panel may recommend to the Parish or Town Council that they censure the Councillor at their next Council meeting.
- A Decision Notice will be produced within 5 working days and copies will be sent to relevant parties, including, where relevant the Town/ or Parish Council. Copies will be available for inspection and placed on the Council's website.