



How to make a complaint about a Member of the Borough Council of King's Lynn & West Norfolk or members of Town and Parish Councils in the Borough.

Guidance

This document tells you how to make a complaint if you are unhappy about the way that an elected Borough Councillor or co-opted Member (referred jointly as Members) of the Borough Council of King's Lynn & West Norfolk or a Town or Parish Council within the Borough has behaved.

It also explains:-

- How to make a complaint;
- Who you can complain about;
- What you can complain about;
- What will happen to your complaint.

If you have any questions or difficulties or are in need of any support in reading or understanding this leaflet, for example – if English is not your first language or you have a disability, please contact Communications on 01553 616711.



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 Borough Council's website at www.west-norfolk.gov.uk. If you do not have access to a computer a form may be obtained by contacting Democratic Services on 01553 616377.

Once completed please send your complaint form together with any documents that support your complaint to the address at the end of this guidance note.

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.

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 what complainant type you are e.g. are you an Officer of the Council, member of the public etc.

Section 4 – Details of the Member you are complaining about

You can complain about Members of the Borough Council of King's Lynn & West Norfolk or members of a Town or Parish Council within the Borough. A full list of current Borough Members is available on the Council's web page at www.west-norfolk.gov.uk

Please note, we can only consider complaints about individual Members. We cannot consider complaints about a Council as a whole or about any people employed by it such as Town or Parish Clerks. A complaint about a Borough Council service is dealt with under a separate procedure (see the corporate complaints page on the Council's website at www.west-norfolk.gov.uk).

Section 5 – What you can complaint 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 Model Codes for Borough Council Members and Town and Parish Members can be found on the Council's website www.west-norfolk.gov.uk or alternatively, the Standards Board website at www.standardsboard.gov.uk.

A complaint can be made if you believe a Member has breached any part of the Code whilst acting in their official capacity which includes:-

- Unlawfully discriminating against someone;
- Failing to treat people with respect;
- Bullying any person;
- Intimidating any person involved in any investigation or proceedings about someone's misconduct;
- Doing something to prevent those who work for the Authority from being unbiased;
- 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 authority;
- Using their position improperly, to their own or someone else's advantage or disadvantage;
- Misusing their Authority's resources;
- Allowing their Authority's resources to be misused for the activities of a registered political party;
- Failing to register financial or other interests;
- Failing to reveal a personal interest at a meeting;
- Taking part in the discussion or making a decision where they have a personal interest that is so significant that it is likely to affect their judgement of the public interest (known as 'prejudicial interest');
- Improperly influencing a decision about a matter that they have a prejudicial interest in;
- Failing to register any gifts or hospitality (including its source), that they have received in their role as a Member worth over £25.

What we cannot investigate

There are some complaints we cannot investigate, 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 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) ;
- Complaints about employees;
- Incidents that happened before a Member was elected.

Evidence

If you believe a Member has breached their Code of Conduct it would be useful to attach any evidence that you feel is relevant to your complaint. For example, details of any witnesses or details of any dates/times of any incidents etc.

Section 6 – 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 also believe that they have a right to be provided with a summary of the complaint. We are unlikely therefore to withhold your identity or the details of your complaint unless there is a good reason. 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.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. A decision on your request will be made by the Assessment Sub-Committee who will carry out the initial assessment of your complaint. We will then contact you with the decision. If your request is not granted, we will allow you the option of withdrawing your complaint. It is important to understand that in certain exceptional circumstances where the matter complained of is very serious, we can proceed with an investigation or other action and disclose your name even if you have asked us not to.

What happens to your complaint

The Monitoring Officer, who is the Officer responsible for ensuring and promoting high standards of conduct by Members will forward complaints to the Assessment Sub-Committee. The Assessment Sub-Committee is made up of members of the Standards Committee which in turn is made up of Borough Members, independent members, (members of the public) and Members of Town and Parish Councils. The Assessment Sub-Committee will make an initial assessment and a decision as to whether further action will be taken.

If the complaint is clearly not about a Member's conduct, or does not fall within the matters which you can complain about as described above, then the Monitoring Officer does not have to pass it to the Assessment Sub-Committee.

Initial Assessment

When we receive your complaint, we will write to you to let you know that we have received it. The initial Assessment Sub-Committee will make an assessment of your complaint within an average of 20 working days. It may be that they will decide that your complaint will not be investigated for one or more reasons. The Assessment Sub-Committee may alternatively refer the complaint to the Monitoring Officer for investigation or to take other action. Alternatively, the Sub-Committee may refer the matter to the Standards Board for England.

The Assessment Sub-Committee will apply the following questions to the facts set out in a complaint in deciding whether to investigate the complaint:

- 1** Is the complaint about the conduct of a Member of an Authority within the Borough? If not, if he or she is a Member of another authority then the matter should be referred to the Monitoring Officer of that Authority.
- 2** Has sufficient information been submitted by the complainant to satisfy the Assessment Sub-Committee that the complaint should be referred for investigation or other action?
- 3** Has the complaint been the subject of an investigation or other action relating to the Code of Conduct, or the subject of investigation by other regulatory authorities such that there would be nothing to be gained by further action being taken.
- 4** Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- 5** Is the complaint too trivial to warrant further action?
- 6** Does the complaint appear to be simply malicious, politically motivated or a tit-for-tat complaint.

Review

If the initial Assessment Sub-Committee decides that your complaint should not be referred for investigation, we will write to you explaining the reasons why in a decision notice.

If you are unhappy with the outcome you may seek a review of the decision by making a further request in writing with reasons, within 30 days of the date of the decision notice. A differently constituted Review Sub-Committee must make a decision in relation to the review within three months but we aim to deal with it sooner.

If following the review the decision not to investigate is upheld we will write to you with the decision. There is no right of appeal. However, if you are dissatisfied with regard to the procedures adopted by the Borough Council then you can write to the Local Government Ombudsman (www.lgo.org.uk).

Investigation/Determination Hearing

If your complaint is referred to the Monitoring Officer for investigation, we will write to you and inform you of the timescales for completing the investigation, and details of any hearings (if appropriate). You will also have an opportunity to provide the investigator with any further information or documents that you consider relevant. You may be able to attend the hearing, and we will of course write to you to tell you the outcome of the hearing.

Remember, full details of your complaint and your details will usually be shared with the subject Member and all parties involved in the case.

At the end of an investigation

Following a hearing, the Standards Committee will make one of the following findings about the Member who is the subject of the complaint:-

- The Member had not failed to comply with the Code of Conduct;
- The Member had failed to comply with the Code of Conduct but that no action needs to be taken;
- The Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

If the Member is no longer a Member of the Authority the Standards Committee can only censure that person. Otherwise, it can impose any one or a combination of the following sanctions:-

- Censure;
- Restriction for up to a maximum of 6 months of that Member's access to the premises and/or resources of their Authority. This is provided that any such restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the Member's ability to perform their functions as a Member;
- Partial suspension of that Member for up to a maximum of 6 months;
- Suspension of that Member for up to a maximum of 6 months;
- A requirement that the Member submit a written apology in a form specified by the Standards Committee;
- Partial suspension of the Member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee;
- Partial suspension of a Member for up to a maximum of 6 months or until such time as the Member undertakes any training or conciliation specified by the Standards Committee;
- Suspension of the Member for up to a maximum of 6 months or until such time as the Member submits a written apology in a form specified by the Standards Committee;

Points to remember

- We can only consider complaints that are about individual Members of a Council;
- We can only investigate matters which relate to breaches of the Code of Conduct;
- Your complaint must be in writing and cover all the points set out in the complaints form;
- Your details and details of the complaint are unlikely to remain confidential as we need to share it with all parties involved in the process including the subject Member;
- Do send us as much information as you can in order for us to decide whether or not the matter should be investigated.

We hope the information in this leaflet has answered your questions about making a complaint.

If you have any more questions, you can contact:-

The Monitoring Officer
Legal Services
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Tel 01553 616270

Annex 1 Criteria Guidance

The following list is provided as guidance to the possible issues that may need to be considered by the initial Assessment Panel.

If an allegation discloses a potential breach of the Code of Conduct then the initial Assessment Panel will consider what action to take using the criteria as set out in the Complaints Procedure and by the Standards Board for England.

- Is there prima facie evidence of a breach of the Code?
- Is it serious enough to warrant a sanction?
- Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and are there no other avenues left to deal with it except investigation?
- Is it about something that happened so long ago that there would be little benefit in taking action now?
- Would an investigation serve a useful purpose?
- Is the case suitable for local investigation?
- Is this a case where alternative action such as training or mediation would be more appropriate?
- Would an apology be appropriate?
- Is it malicious, relatively minor or tit-for-tat?
- Has the same, or a substantially similar, complaint already been the subject of an investigation or inquiry, and is there anything further to be gained by seeking the sanctions available to the Standards Committee or the Adjudication Panel for England?
- Does the complaint concern acts carried out in the Member's private life, when he/she was not carrying out the work of the Authority or had not misused their position as a Member?

- Is the complaint really about dissatisfaction with a council decision or action?
- Is there enough information currently available to justify a decision to refer the matter for investigation?

Circumstances when the initial Assessment Panel should consider a complaint to the Standards Board for England:

1. Complaints concerning the Leadership of the Council or in some cases a senior opposition Member.
2. Complaints from the Chief Executive and Monitoring Officer.
3. Instances where a large number of key people are conflicted out and there is a risk of successful judicial review.
4. Instances where there has been national attention, or where the Standards Committee feels that the matter turns on an important point of interpretation of the Code (a test case).