

## COMPLAINT FORM – MEMBERS

This form is for complaints against Members of Wiltshire Council and Members of Town/Parish/City Councils within the Wiltshire Council Unitary Authority area, in accordance with the arrangements set out in [Protocol 11](#) of the Wiltshire Council Constitution and the Localism Act 2011.

***Complaints must relate to the behaviour of a Member of a Council when on official business, where that behaviour is considered to be in breach of that Council's Code of Conduct for Members.***

In accordance with Paragraph 4.6 of Protocol 11, the Monitoring Officer may decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources

If you have any questions relating to completion of this form or the complaints process, please email [governance@wiltshire.gov.uk](mailto:governance@wiltshire.gov.uk) or write to Governance, County Hall, Trowbridge, BA14 8JN or Tel: 01225 718400

### Your details

Date of complaint	
Title	
First name	
Last name	
Address	
Daytime phone	
Evening phone	
Mobile	
e-mail address	

We will not disclose your contact details to anyone unless it is necessary to do so in order to process and resolve your complaint.

However, we will tell the following people that you have made a complaint:

- The Member you have complained about ("The Subject Member");
- The clerk of the parish council (if applicable)

- The Monitoring Officer and other officers supporting the arrangements for processing and resolving complaints;
- The Independent Persons;
- Those Members of the Wiltshire Council Standards Committee considering the complaint.

An Independent person means a person appointed under Section 28(7) of the Localism Act 2011 whose views must be sought and taken into account before a decision is made on an allegation of Member misconduct under these arrangements, or who may be consulted by the Member about the complaint. An Independent Person consulted by the Member about the complaint would not be the same Independent Person whose views were sought before a decision is made.

Please indicate the box that best describes you:

Member of the public	
Elected or co-opted Member of a Council	
Member of Parliament	
Wiltshire Council Employee	
Other (please specify)	

### Subject Member

Please give us the name of the Member you believe to have breached their Council's Code of Conduct, and the name of the council they belong to. If you wish to complain about more than one Member, please complete a separate form for each Member.

First name	Last name	Council

### Code of Conduct and Guidance for Submission of a Complaint

Every local council has its own Code of Conduct. Members of a Council only have to comply with the Code of Conduct relevant to the Council of which they are a Member. Codes are often accessible from the relevant Council website, if they have one, or otherwise upon request from the Clerk of that Council. If someone is a Member of several Councils, they may be subject to multiple Codes.

In all cases, the Code of Conduct **ONLY** applies when the Member is acting in their capacity as a Member and does not apply to their private lives or when they are acting in other capacities. However, it is possible that someone could be acting in multiple capacities simultaneously.

If, having read the relevant Code, you believe that the Member has breached their local Code, please enclose a copy of that Code with your complaint. Please also provide an explanation of which elements of the code you believe to have been breached and how.

It is important that you provide us with all the information you want to be taken into account. This is because the Council's Assessment Sub-Committee will need to decide on the basis of information as submitted whether there is sufficient evidence to proceed to an investigation. If insufficient information is included, it may determine not to proceed.

For example, please make sure you tell us:

- Exactly what you are alleging the Member said or did. For instance, instead of just saying that the Member failed to act in the public interest in the conduct of their duties, please also state exactly what they said or did to lead you to that conclusion.
- You should give the date of the alleged incident(s) wherever possible. Where you cannot do so you must at least provide a general timeframe.

This is particularly important as a complaint will not be referred for investigation when it is made more than 20 working days after the date upon which the Complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.

In any event, the Monitoring Officer may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

- You should let us know whether there were any witnesses to the alleged incident(s) and provide their names and contact details if possible.
- You should provide any relevant background information.

The assessment criteria used for consideration of complaints can be found on the council's website [at this link](#).

## **Decision Notices**

When a final decision is made in relation to your complaint, whether it is to take no further action or, following an investigation and hearing, it is determined that the Member complained of is in breach of a relevant Code, a decision notice will be prepared. In the interests of transparency and fairness, such decision notices will normally be made public at the end of the complaints process. As the Complainant, you will receive a copy of the decision notice ahead of its publication on the Council's website. You will have an opportunity to make representations if you believe that personal details should be excluded from that decision notice, but must do so within five days of receiving the decision notice.

If such representations are made, the Monitoring Officer will give consideration to redacting parts of the decision notice or publishing a summary of the decision.

### **Privacy Notice**

Wiltshire Council holds and processes personal data in accordance with all current legislation relating to data protection and complies with the General Data Protection Regulation 2016. Your details will be processed strictly in accordance with that legislation. A detailed Privacy Notice is included with this form.

**Details of Complaint**

Write down the details of your complaint here. Continue on a separate sheet if there is not enough space on this form.

A large empty rectangular box intended for writing the details of a complaint.

**Only complete this section if you are asking us to keep your identity confidential**  
Confidential from Subject Member

In the interests of fairness and natural justice, we believe that Members who are complained about have a right to know who made the complaint. We will provide them with a copy of this complaint form. We will not withhold your identity or details of your complaint unless there is good reason to believe that releasing that information would result in:

- You or your witnesses being unlawfully bullied or intimidated or;
- The destruction of information or evidence that would seriously hamper an investigation of the complaint.

We will not automatically agree to a request to keep your identity or the substance of your complaint confidential. Your request and your reasons for asking for confidentiality will be considered by the Monitoring Officer. If they decide that your identity and information about your complaint must be released to the Member you are complaining about, we will let you know. Normally we would then allow you to withdraw your complaint if you wish to do so.

Provide us with details of why we should withhold your identity from the Member about whom you are complaining:

Confidential (general)

As detailed previously a summary of the details of the complaint, including names of the parties, will become public once the matter has been concluded. If for any reason you believe that there is justification for personal details set out in the complaint confidential once the matter is concluded please indicate these below.

Provide us with details of why personal details and/or identity should be kept confidential in relation to this complaint.

## **Privacy Notice – Code of Conduct Complaints.**

This notice gives you information about the data we hold about you ('the Complainant'), how we use it, your rights in relation to it and the safeguards that are in place to protect it.

### **Data Controller**

Wiltshire Council is registered as a data controller with the Information Commissioner's Office. Full details of the registration are available at [ICO register of data controllers](#). For details of how to contact the Council please follow this [link](#)

### **Data Protection Officer (DPO)**

The Council's DPO may be contacted as above or online at [dataprotection@wiltshire.gov.uk](mailto:dataprotection@wiltshire.gov.uk)

### **What type of Information we have**

The Governance Team will collect and hold personal identifiers, including names and contact details and other personal information submitted as part of a code of conduct complaint ( which will depend on the nature of the complaint made).

### **How we get the information and why we have it**

The Governance Team will process your personal information for the purpose of considering, investigating and determining complaints that members of Wiltshire Council or town and parish councils within Wiltshire have acted in a manner that amounts to a breach of the code of conduct that applies to the relevant council. It will also be processed for maintaining our records and for any related administration. Most of that personal information will be provided directly by you for these purposes, although we may also obtain information from the Clerk to the relevant Council and the Subject Member (the councillor against whom a complaint is made).

Personal information provided by you may be shared with the Subject Member and with other parties as specified on the Complaint Form. On final determination of a Complaint, a Decision Notice will normally be published on the Council's website, which may contain the name of the Complainant and other personal information, dependent on the nature of the complaint.

### **Legal basis for processing**

Our processing shall be lawful because **at least one** of the following will apply:

- (a) The data subject has given consent to the Council for processing of their personal data for one or specific purposes. This consent can be withdrawn by contacting the Governance Team;
- (b) Processing is necessary for compliance with a legal obligation to which the Council is subject, in particular any requirements under the Localism Act 2011.
- (c) Processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- (d) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council;

If your special category data is processed, in addition to one of the above, processing will be necessary because **at least one** of the following shall also apply:

- (a) The data subject has given explicit consent to the processing of those personal data for one or more specified purposes;
- (b) To carry out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law;
- (c) To protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;
- (d) Processing relates to personal data which are manifestly made public by the data subject;
- (e) For the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
- (f) Processing is necessary for reasons of substantial public interest;
- (g) For archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

### **Your data protection rights**

Under data protection law, you have rights including:

**Your right of access** - You have the right to ask us for copies of your personal information.

**Your right to rectification** - You have the right to ask us to rectify information you think is inaccurate. You also have the right to ask us to complete information you think is incomplete.

**Your right to erasure** - You have the right to ask us to erase your personal information in certain circumstances.

**Your right to restriction of processing** - You have the right to ask us to restrict the processing of your information in certain circumstances.

**Your right to object to processing** - You have the the right to object to the processing of your personal data in certain circumstances.

**Your right to data portability** - You have the right to ask that we transfer the information you gave us to another organisation, or to you, in certain circumstances.

You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

Please contact the Data Protection Officer ( details above) if you wish to make a request.

### **How to complain**

You can also complain to the ICO if you are unhappy with how we have used your data.

The ICO's address:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Helpline number: 0303 123 1113