

How to Make a Complaint Against a Moray Councillor

This document explains how you can make a complaint against a Moray Councillor. Complaints may be made by members of the public, Council staff or by Councillors.

Nothing in this document affects your right to make a complaint to the Commissioner for Ethical Standards in Public Life in Scotland (formerly the Public Standards Commissioner) at any stage. Their address is:

**Commissioner for Ethical Standards in Public Life in Scotland
39 Drumsheugh Gardens
EDINBURGH
EH3 7SW**

Tel: 0300 011 0550

Web: www.ethicalstandards.org.uk

Section 1 Preliminary Stage – For Complaints by Councillors Only

Section 2 Informal Resolution Stage – This stage will be used by Members of the Public and Council employees. It is also the second stage for Complaints by Councillors.

SECTION 1

Where any Councillor is alleged to have breached the Councillors Code of Conduct (“the Code of Conduct”) the following procedure will apply. The procedure is in two stages with the aim of achieving a satisfactory outcome for all involved – Preliminary Stage and Informal Resolution Stage, but at any point the complaint may be referred to the Commissioner for Ethical Standards in Public Life in Scotland.

PRELIMINARY STAGE

The Preliminary Stage should be used for complaints by a Councillor against a Councillor and only if this fails to produce a satisfactory outcome should the Informal Resolution Stage be invoked. Complaints by employees and members of the public will proceed directly to the Informal Resolution stage.

1. The Complainer who alleges the breach of Code of Conduct will discuss the issue with the Councillor who is alleged to be in breach of the Code of Conduct. Both parties should seek to resolve the complaint at this stage. The Monitoring Officer will on request provide relevant information about the Code of Conduct but shall not at this stage take a view on whether a breach has occurred. Councillors who are not part of a political group may bypass paragraphs 2-5 of the Preliminary Stage.
2. If the Complainer is not willing to speak to the Councillor who is the subject of the complaint directly, he/she will approach the Complainer’s political Group Leader who will assist in attempting to resolve the issue informally through discussion either directly with both parties separately/ together or indirectly by discussion between the relevant Group Leaders.
3. If the political Group Leader is the subject of the allegation, the Convener or Leader of the Council will assist the Complainer in attempting to achieve a resolution of the complaint. If the Convener or the Leader of the Council is the subject of the allegation, the Convener/Leader of the Council (whoever is not the subject of the allegation) will try to resolve the issue in accordance with paragraph 2 above.
4. If either party is not satisfied with the outcome of the meeting with the political Group Leader in terms of paragraph 2 above, he/she will raise the matter with either the Convener or the Leader of the Council (if they are not the subject of the complaint) who will seek to resolve the matter.
5. If the Complainer is not satisfied after the Preliminary Stage, he/she may proceed to the Informal Resolution stage (Section 2). The Preliminary Stage should be completed within no more than 15 working days of the issue which is the subject of the complaint arising.

INFORMAL RESOLUTION STAGE

The Informal Resolution Stage is the first stage for complaints by members of the public and Council employees, and the second stage for complaints by a Councillor.

How to make a complaint

1. Any complaint about the conduct of a Councillor should be sent in writing to the Head of Governance, Strategy and Performance (and Monitoring Officer). The complaint must also include the following details:-
 - (a) The name and address of Complainer
 - (b) The name of the Councillor against whom the complaint is being made
 - (c) The nature of the misconduct alleged
 - (d) The part of the Councillors Code of Conduct ("the Code of Conduct) which is alleged to have been breached. The Code of Conduct may be viewed at: <http://www.standardscommissionscotland.org.uk/content/codes-conduct>
 - (e) Any supporting evidence
 - (f) Reference to whether the Preliminary Stage has been completed and if not, an explanation as to why this stage has been bypassed for all complaints by Councillors

[NOTE: At this stage the Monitoring Officer is required to advise the Chief Executive that a complaint has been made].

Evidence of alleged criminal offence

2. If at any stage during the course of the complaints procedure evidence that a criminal offence may have been committed comes to the attention of the Head of Governance, Strategy and Performance (and Monitoring Officer), the police may be informed. In that event, the complaints procedure will be suspended until after the outcome of any police investigation or criminal prosecution.

Acknowledgement of Complaint

3. The Head of Governance, Strategy and Performance (and Monitoring Officer) shall record the date of receipt of every valid complaint; shall issue an acknowledgement of receipt to the complainer within 5 working days with a copy of the complaints procedure. The Head of Governance, Strategy and Performance (and Monitoring Officer) shall advise the Complainer that the full details of his/her complaint will be sent to the Councillor. The Head of Governance, Strategy and Performance (and Monitoring Officer) may seek clarification from the complainer in relation to any aspect of the complaint.

This should be provided by the complainer within no more than 5 working days. The date of receipt of such clarification shall then be deemed to be the date of receipt of the complaint.

Intimation of the Complaint to the Councillor

4. Within 5 working days of the date of receipt of the complaint, the Head of Governance, Strategy and Performance (and Monitoring Officer) shall intimate the complaint to the Councillor. The Councillor shall be informed of the following:
 - (a) Identity of the complainer;
 - (b) The exact nature of the complaint;
 - (c) The provisions of the Code of Conduct which he/she is alleged to have contravened.

The Councillor shall be sent a copy of the complaints procedure.

5. Before processing the complaint the Head of Governance, Strategy and Performance (and Monitoring Office) requires to be satisfied that the Preliminary Stage has been exhausted and/or was not appropriate.
6. The Head of Governance, Strategy and Performance (and Monitoring Officer) may arrange for such investigation(s) to be carried out as he/she considers appropriate, in order to clarify or resolve the complaint. This will include taking a statement from the Councillor detailing their response to the complaint. That statement, once approved by the Councillor, will be issued to the Complainer.
7. In the event that the Head of Governance, Strategy and Performance (and Monitoring Officer) determines that the complaint is without any merit, he/she will advise the parties accordingly and give his/her reasoning, making specific reference to the right of the Complainer to refer the matter on to the Commissioner for Ethical Standards in Public Life in Scotland. A local decision that a complaint is without any merit will be issued within no more than 15 working days after the date of receipt of the complaint (or as soon as possible thereafter).

Mediation Meeting

8. Where a complaint is accepted as potentially of some merit following investigation by/on behalf of the Head of Governance, Strategy and Performance (and Monitoring Officer), the parties and Head of Governance, Strategy and Performance (and Monitoring Officer) will be invited to attend an informal mediation meeting, facilitated by the Chief Executive to be held no later than 25 working days after the date of receipt of the complaint (or as soon as possible thereafter). (Note: This meeting is intended to allow parties to explore the possibility of a mutually satisfactory resolution. It is described as mediation only in terms of the common usage of that word and it should not be inferred that formal mediation practice will be followed as this is not the case.) At the mediation meeting parties will discuss the results of the Head of Legal and Democratic Service's investigation with a view to agreeing a mutually

satisfactory resolution to the complaint. That may involve a number of outcomes including withdrawal of the complaint or the issuing of an apology.

Acceptance of Complaint

9. In the event that the Councillor accepts that the complaint is well founded and the Complainer is satisfied with the outcome, the Head of Governance, Strategy and Performance (and Monitoring Officer) shall be entitled to treat the matter as resolved. If the Complainer is not satisfied with the outcome following stage 7, or indeed at any stage of the process, he/she may refer the complaint to the Commissioner for Ethical Standards in Public Life in Scotland.

Unacceptable Behaviour

10. Occasionally the behaviour or actions of an individual will make it very difficult for officers to deal with their complaint. Examples of such behaviour include aggressive or abusive behaviour and unreasonable use of the complaints process. When this happens, the Head of Governance, Strategy and Performance (and Monitoring Officer) will write to the Complainer advising them that their complaint will no longer be handled in terms of this policy and reminding them of their right to complain directly to the Commissioner for Ethical Standards in Public Life in Scotland. The sort of situations in which the behaviour or actions of a Complainer may be considered as unacceptable are detailed in the Scottish Public Services Ombudsman's [Unacceptable Actions Policy](#) a copy of which will be attached to any letter advising that the complaint will not be progressed any further due to unacceptable behaviour.