



Making a complaint about a local councillor

Explanatory Notes

- 1. If you have any difficulties filling in the complaint form, if you are unable to write in English or if you have a disability that prevents you from making your complaint in writing then please call 01332 643653, minicom 01332 256666.**
2. The screening questions on the page opposite must be answered in order for the complaint form to proceed.
3. Please note that if you answer 'yes' to any of screening questions 2, 3 or 4, and your complaint relates to a councillor who is a member of a political group, your complaint is considered as "having the potential to be politically influenced". On that basis, it would be inappropriate for council officers to be involved in its determination. In those circumstances, this form will be referred to the political group of which the subject councillor is a member for determination under the group's disciplinary procedures. This will not apply if the Monitoring Officer determines, after consultation with the Independent Person Advisory Panel, that the complaint is so serious that it should be escalated to the Monitoring Officer Assessment Stage.
4. Complaints will only be considered when the complaint form has been completed in full.
5. In the case of complaints which are upheld, the Standards Committee is limited in the sanctions that it can impose. Complaints will only be considered where the complainant has specified precisely which aspect(s) of the Code of Conduct they allege has been breached, and which sanction(s) they are seeking. Even if the complaint is upheld, it does not necessarily follow that the Standards Committee will agree with the proposed sanction.
6. Any persons believed to make misleading declarations in relation to screening questions 2, 3, 4 or 5 will be permanently barred from making complaints through the Standards procedures.
7. The decision taken by the Standards Committee or the Monitoring Officer, or investigator appointed by the Monitoring Officer, is final. Officers will not become involved in dialogue debating the outcome once the final decision has been communicated to the complainant.

Screening Questions

1. *Is the complaint you are making subject to any other ongoing investigatory or disciplinary processes, or has it previously been made through the council's Standards processes?*

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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2. *At any time in the last three years, are you or have you been:*
- a. *A councillor, MP or MEP*
 - b. *A Local, General or European Election candidate*
 - c. *Closely linked to any person who falls into either category (a) or (b)?*

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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3. *Are you being assisted in preparing your complaint by any person who would fall under categories (a), (b) or (c) in Question 2?*

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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4. *Does your complaint relate to a comment a councillor has made in a meeting of Council or in any political forum outside of Derby City Council?*

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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5. *Has the person or persons you are complaining about sought to make amends, such as through an apology for his/her/their actions or through any other action that could potentially arise as a Standard Committee sanction following an investigation?*

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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6. *Do you accept that any decision made by the Standards Committee or the Monitoring Officer, or investigator appointed by the Monitoring Officer, is final and will conclude the matter in respect of the Standards process?*

Please note that complaints will not be considered unless this is accepted.

YES	<input type="checkbox"/>
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NO	<input type="checkbox"/>
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Complaint Form

About you

Preferred title: Full name:

Postal address:

Email address:

Mobile number: Landline:

Please tick here if you are employed by Derby City Council:

The data we keep about you will be for the purpose of communicating with you while your complaint is in process. All complaints will then be kept on file for a period of six years after they are received. Contact details will not be used for other purposes nor disclosed. However, we may not be able to keep your identity confidential.

Declaration

Please consider the complaint I have described and any evidence I have attached. I understand and accept that the details will normally be disclosed to the member, particularly if the matter proceeds to an investigation.

I understand that my complaint will be kept on file for up to six years after the date of its submission. I agree to my data being retained during this period and understand that in making a complaint my identity may not remain confidential.

Signature:

Date:

About your complaint

Name or names of the member(s) you are complaining about.

Please indicate below which part(s) of the Members' Code of Conduct you allege have been breached (please see Appendix 1 for the full definitions of each the paragraphs which are referenced):

Paragraph ref Summary

3.1	Treating others with respect	<input type="checkbox"/>
3.2	Not breaching equality laws, bullying, intimidating or compromising the impartiality of those who work for the council	<input type="checkbox"/>
4.1	Not disclosing information given in confidence or preventing access to information to which a person is entitled	<input type="checkbox"/>
5.1	Not bringing office or authority into disrepute	<input type="checkbox"/>
6.1	Not using position as a member or council resources improperly	<input type="checkbox"/>
7.1 and 7.2	Having regard to relevant advice and giving reasons for decision as required.	<input type="checkbox"/>
8.1 – 12.12	Failings in relation to the declarations of pecuniary interests or gifts	<input type="checkbox"/>
13.1	Failings in relation to interests arising at overview and scrutiny committees	<input type="checkbox"/>
14.1 – 15.2	Failings in relation to the registration of interests	<input type="checkbox"/>

Please indicate below which sanction(s) you are seeking against the councillor(s).

Summary

That the member is censured or asked to apologise	<input type="checkbox"/>
That the findings against the member be reported to Council	<input type="checkbox"/>
That it be recommended to the Group Leader (or to Council for ungrouped members) that the member be removed from any or all committees	<input type="checkbox"/>
That it be recommended to Council that the member be replaced as Executive Leader	<input type="checkbox"/>
That it be recommended to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.	<input type="checkbox"/>
That it be recommended that the member undertake training	<input type="checkbox"/>
That it be recommended to Council that the member be removed from all outside appointments to which (s)he has been nominated by the authority.	<input type="checkbox"/>

Please provide details of your complaint below:

(continue on additional pages as required)

A large, empty rectangular box with a thin black border, intended for providing details of a complaint.

Only complete the below section if you are requesting that your identity is kept confidential

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 they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that you would be placed in serious risk by its disclosure.

If you wish your details to be kept confidential, please explain your reasons for requesting this. 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 and communicate the outcome to you.

If your request for confidentiality is not granted, you may usually withdraw your complaint. However in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Councillors' Code of Conduct

September 2021



COUNCILLORS' CODE OF CONDUCT

The General Principles of Public Life

You should behave in a way consistent with the following principles:

Selflessness	You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
Honesty and Integrity	You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
Objectivity	You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
Accountability	You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
Openness	You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.
Leadership	You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.



Part 1 General provisions

Introduction and interpretation

- 1.1 This Code applies to **you** as an elected councillor or co-opted member of Derby City Council.
- 1.2 You should read this Code together with the general principles at page 2 (prescribed in Section 28 of the Localism Act).
- 1.3 You must comply with the provisions of this Code.

- 1.4 In this Code:

“interest” means a pecuniary or other interest required to be notified under this Code;

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“councillor” refers to an elected member of Derby City Council;

“co-opted” member” refers to an individual appointed by a committee for the purpose of representing a particular area of interest or issue for consideration;

“partner” means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners;

“pecuniary interest” a disclosable pecuniary interest under relevant Regulations and this Code;

“Register of Interests” means the Council’s register of councillors and co-opted members’ interests maintained under section 29(1) of the Localism Act 2011; and

“Sensitive Interest” means an interest whose disclosure to the public could lead to you, or a person connected with you, being subjected to violence or intimidation.

- 1.5 In this Code:

To "bully" is defined as engaging in offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate or injure the recipient; and

To "harass" is defined as engaging in unwanted conduct related to a protected characteristic as defined under the Equality Act 2010, that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.



Scope

2.1 The Code applies to all forms of communication and interaction, including but not exclusively:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

2.2 Subject to sub-paragraphs 2.3-2.6, you must comply with this Code whenever you act in your official capacity as a member of your authority. That is when you:

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority.

Guidance Note:

Councillors shall be deemed to be operating on council business where they are:

- Attending the Council House or other council premises;
- Undertaking duties at a council committee;
- Undertaking duties on an outside body or organisation to which Council has appointed them;
- Undertaking duties on an outside committee to which the Council did not appoint them, but the basis of their appointment was as an elected member of the Council;
- Undertaking casework on behalf of local constituents;
- Attending councillor surgeries;
- Attending council-supported neighbourhood activities;
- Delivering leaflets/letters that have been produced by the Council.

2.3 Subject to sub-paragraphs 2.4 and 2.5, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

Guidance Note:

Councillors shall not necessarily be deemed to be operating on council business where they are:

- Going about ordinary everyday tasks not specific to their role as a councillor;
- Approached by a member of the public to discuss casework outside of a surgery or formal setting;
- Travelling before or after undertaking council business;
- Delivering leaflets on behalf of a political party or candidate.



- 2.4 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2(c), 5.1 and 6.1 also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

Guidance Note:

Under the Councillor Complaints Procedure, the Monitoring Officer will make the decision at initial assessment stage on whether a councillor was acting in their capacity as a councillor at the time of an incident leading to a complaint.

- 2.5 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.4) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- 2.6 Where you act as a representative of your authority:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3.1 You must treat others with respect.

Guidance Note:

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the Police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Working Together: Councillor – Officer Protocol and the Employee Code of Conduct.



3.2 You must not:

- (a) do anything which may cause your authority to breach any equality laws;
- (b) bully or harass any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a councillor or co-opted member (including yourself) has failed to comply with their authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4.1 You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (ii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5.1 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Guidance Note:

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and can constructively challenge and express concern about decisions and processes undertaken by the council, whilst continuing to adhere to other aspects of this Code of Conduct.



- 5.2 You:
- (a) are expected to co-operate with any formal standards investigation relating to an alleged breach of this Code;
 - (b) must not seek to make trivial or malicious allegations under the Standards process.
- 6.1 You:
- (a) must not use or attempt to use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, including, but not restricted to, making representations to
 - (i) officers to influence the processing of individual taxi licensing applications; or
 - (ii) sub-committees on behalf of the taxi trade or individual taxi drivers;
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority’s reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to:
 - (i) any applicable Code of Recommended Practice on Local Authority Publicity made under the Local Government Act 1986; and
 - (ii) the regulatory standards of the authority in consideration of any representations that may be made from stakeholders including, but not restricted to, the taxi trade.
- 7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) your authority’s chief finance officer; or
 - (b) your authority’s monitoring officer,
- where that officer is acting pursuant to their statutory duties.
- 7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.



Part 2 Pecuniary Interests

You must disclose the pecuniary interests listed below. There can be a criminal penalty if you do not.

Notification of Pecuniary Interests

8.1 A pecuniary interest is an interest of yourself or your partner within the following descriptions:

Subject	Prescribed description
Employment , office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a Member in carrying out their duties, or towards the election expenses of a Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to a Member's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where- (a) that body (to a Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either:



- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share capital of that body is of more than one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Non-participation where you have a pecuniary interest

- 9.1 Where you have a pecuniary interest in any business of your authority you must disclose the interest and withdraw from the room or chamber where a meeting considering the business is being held unless:
- a. you have obtained a dispensation from the authority's Monitoring Officer or Standards Committee;
 - b. It is a meeting at which the public can speak, in which case you may address the meeting but then immediately withdraw.
- 9.2 If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- 9.3 Where a Cabinet Member may discharge a function alone and becomes aware of a pecuniary interest in a matter being dealt with or to be dealt with by them, the Cabinet Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Dispensations

- 10.1 The council may grant you a dispensation, but only in specified circumstances, to enable you to participate and vote on a matter in which you have a pecuniary interest.
- 10.2 Applications for dispensation must be made in writing to the Monitoring Officer before the meeting at which the matter is to be discussed.

Offences

- 11.1 It is a criminal offence to:
- (a) Fail to notify the Monitoring Officer of any pecuniary interest within 28 days of election;
 - (b) Fail to disclose a pecuniary interest at a meeting if it is not on the register;
 - (c) Fail to notify the Monitoring Officer within 28 days of a pecuniary interest that is not on the register that you have disclosed to a meeting;
 - (d) Participate in any discussion or vote on a matter in which you have a pecuniary interest;



- (e) As a Cabinet Member discharging a function acting alone, and having a pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and
- (f) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a pecuniary interest or in disclosing such interest to a meeting.

11.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Notification of Gifts and Hospitality

12.1 You must, within 28 days of receipt notify the Monitoring Officer of any gifts and hospitality you have received with an estimated value of over £50

Guidance Note:

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor.

The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult, if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered.

You do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, contact the Monitoring Officer for guidance.

12.2 You must register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

12.3 You must disclose the receipt of that gift or hospitality and its nature and extent where it is relevant to the matter under consideration unless it was registered more than 3 years before

Interests arising in relation to overview and scrutiny committees

13.1 In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-



committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.



Part 3 Other Registerable Interests

Disclosing Other Registerable Interests

- 14.1 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out at 14.2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
- 14.2 Other Registerable Interests are:
- a) any unpaid directorships.
 - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
 - c) any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.



Part 4

Registration of Interests

Registering your interests

- 15.1 You must notify the Monitoring Officer of any interest you have within 28 days of:
- (a) becoming a councillor or co-opted member;
 - (b) disclosing an interest in any matter being considered at a meeting (if that interest is not already on the Register of Interests);
 - (c) (if you are an executive member) becoming aware of an interest in any matter to be dealt with, or being dealt with.
- 15.2 Any interests notified to the Monitoring Officer will be included in the register of interests.
- 15.3 A copy of the register will be available for public inspection and will be published on the authority's website.

Sensitive interests

- 16.1 Where you consider that you have a sensitive interest, and the Monitoring Officer agrees:
- (a) if the interest is entered on the Register of Interests, any copy of the Register of Interests made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld
 - (b) If the interest is not entered on the Register of Interests, at any relevant meeting you must disclose the fact that you have a disclosable interest, but not the nature of the interest
- 16.2 You should, within 28 days of becoming aware of any change of circumstances which means that your interest is no longer sensitive, notify the Monitoring Officer.

