

Factsheet for Local Authority Members: What we do when we get a complaint about your conduct

This factsheet explains what happens when the Ombudsman receives a complaint about the conduct or behaviour of members and co-opted members of local authorities, community councils, fire & rescue authorities and national park authorities in Wales. It does not cover every detail of our procedures, which are available at www.ombudsman-wales.org.uk.

New Complaints

All new complaints are considered by the Ombudsman's Complaints Advice Team, who will acknowledge receipt of the complaint and notify you, the Monitoring Officer of your authority and/or the Clerk of your Community Council (if appropriate) of its existence. A copy of the complaint will also be provided.

You need not respond to this letter if you do not wish to. However if you consider that specific information should be considered by the Ombudsman as part of his initial consideration of this matter please let us know. If you decide to respond or provide any information you should bear in mind that your comments may also be disclosed to the complainant, or used in any subsequent proceedings.

Each complaint, and any supporting information, will then be examined against a two stage test. At the first stage, we will consider whether there is direct evidence that a breach of the Code of Conduct has occurred. At the second stage we consider whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. This involves the consideration of a number of public interest factors such as: whether you have deliberately sought a personal gain at the public expense for yourself or others, misused a position of trust, whether an investigation is required to maintain public confidence in elected members or whether an investigation is proportionate in the circumstances. We will aim to tell you within four weeks whether or not the Ombudsman intends to investigate the complaint.

If we cannot accept the complaint

If a complaint does not meet the requirements of the two stage test, you will be provided with a copy of the explanation in writing.

If we decide to investigate the complaint

If we decide to investigate the complaint it will be conducted by one of the Ombudsman's investigators. We will always write to you and the parties to the complaint confirming our decision to investigate, again you do not need to respond if you do not wish to. However it would be helpful if you could identify any concerns that you may have during the course of the investigation so that these may be promptly resolved.

Investigations are generally conducted in private. Disclosure of details relating to an investigation may amount to a breach of the Code of Conduct. You are therefore advised not to discuss the complaint with anyone (including potential witnesses) other than your legal or other adviser to avoid any prejudice to the investigation. If there are witnesses who you think should be contacted you should advise the Investigator as soon as possible.

Where a request (which identifies you by name) is received from the media or a third party for information relating to an investigation, confirmation of the existence of an investigation only will be given.

The Investigator will usually obtain further relevant documentary and witness evidence. Each investigation varies and while it may be necessary to interview those involved, some cases may be concluded through examination of documents alone. We aim to complete all investigations within 12 months but most are concluded sooner. If, for any reason, we consider it necessary to discontinue our investigation, we will write to you explaining this decision.

When all reasonable enquiries are completed the Investigator will review the evidence gathered and decide whether it is supportive of a breach of the Code. If so, copies of the relevant evidence gathered will be sent to you together with an invitation to attend an interview. Interviews will be recorded and will usually be conducted face-to-face, although in exceptional circumstances you may be asked to answer a series of written questions. Detailed information about the interview process can be found in our factsheet 'Factsheet for Member Interviewees'.

At the interview you should be prepared to answer any questions put to you. You will also be given the opportunity to make comments you feel are relevant to the investigation. You may attend with a legal representative or have somebody else present for support should you choose to do so, so long as they are independent of the matters investigated. Failure to comply with any request made by the Investigator in connection with an investigation may amount to a breach of the Code for elected members.

When we have all the information required, we will write a report or letter setting out the evidence we have considered and the conclusions we have reached.

Investigation outcomes



If we conclude there is no evidence to suggest that a breach the Code of Conduct has occurred, we will close the investigation and provide written reasons for this decision to all parties to the complaint.

If, having reviewed the evidence, it is suggestive that a breach of the Code has occurred; the Ombudsman may determine in some circumstances that no further action is appropriate. Again written reasons for this decision will be sent to all parties.

Where the Ombudsman finds that a complaint is justified and it is also considered to be in the public interest to do so, he may refer it either to the Standards Committee of the relevant authority, or to a tribunal convened by the Adjudication Panel for Wales to make a determination on the issues. You will however be given the opportunity to comment on draft version of the report within a set timescale. Any comments made will be given due consideration before the report is finalised and may be incorporated into the final report.

A copy of the Ombudsman's final report will be sent to you. The complainant will be notified of the Ombudsman's conclusions, and a summary of the report will be provided by way of information. The final report will not be disclosed by the Ombudsman until such time as a determination is made on the issues by the Standards Committee or tribunal.

If the complainant is dissatisfied with our decision



Once we have issued a decision, not to investigate a complaint or to close an investigation or that no further action is appropriate, our task is effectively ended and the file is closed. We will not re-open a case solely because the complainant disagrees with our decision. However you should be aware that a complainant can ask (within twenty working days) for us to review the complaint. If a review request is received we will notify you and provide a copy of any request received.

If you would like more information about this process, please contact us:



- **phone** 0300 790 0203;
- **e-mail** ask@ombudsman-wales.org.uk;
- **visit the website at** www.ombudsman-wales.org.uk;
- **follow us on Twitter:** @OmbudsmanWales;
- **write to:** The Public Services Ombudsman for Wales
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