

Code of Conduct Complaints Process - Summary

PSOW's process for the consideration of complaints that an elected or co-opted member of a local authority, community council, fire and rescue authorities and national park authorities has breached their authority's Code of Conduct is set out below:

Pre Assessment

All complaints and enquiries are considered initially by the Complaints Assessment Team (CAT).

The CAT must establish that the complainant agrees for details of the complaint (and any documents attached) to be shared with others, (including the accused member, Monitoring Officer and where appropriate the Clerk) and that they are prepared to give spoken evidence in support of their complaint to an authorities Standards Committee or a case tribunal appointed to consider any report issued by PSOW.

Where the information provided and/or copy documents within the complaint relate to a third party the CAT may need to obtain consent from that third party to share it.

The CAT will also seek to establish the language preference of English or Welsh for the Complainant, the accused member and the Clerk to the Town or Community Council (where appropriate).

Assessment

CAT officers have the Ombudsman's delegated authority to determine whether:

- further information is required from the complainant to support the allegation made.
- the matter should be referred to the Monitoring Officer/Clerk of the relevant authority for consideration under its local resolution process (where appropriate).
- the complaint should be referred for detailed consideration to one of PSOW's investigation teams who will decide whether the complaint should be investigated.

To make this determination the complaint will be assessed against the Ombudsman's published two stage test:

1. The evidential test is whether there is direct evidence that a breach of the Code actually took place.

2. The public interest test. This requires consideration as to whether an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.

CAT officers will (unless there are exceptional circumstances) inform the complainant, accused member and Monitoring Officer or Clerk of the relevant authority by letter that the complaint has been made and usually provide a copy of the complaint received. The accused member may respond to the complaint made but is not obliged to do so at this stage.

If the complaint fails to meet either step of the two stage test all persons previously notified will be informed by letter.

If it is considered that further, detailed consideration of the complaint is required, the complaint moves to the Investigation Team. An Investigation Officer in the Investigation Team considers the complaint afresh, to determine whether it merits investigation.

Complaints may still be rejected if an Investigation Officer considers that the steps of the two-stage test are not met.

The complainant, accused member and Monitoring Officer or Clerk of the relevant authority will be advised by letter if a decision is made to investigate a complaint. The scope of the investigation will be outlined and a copy of the complaint received shared in a redacted form. The accused member may respond to the complaint made but is not obliged to do so at this stage. This is the start of Investigation stage of the Process.

Investigation

The Investigation Officer considers all the information provided by the complainant and will make enquiries of or seek information from any person or body considered appropriate.

The direction and scope of an investigation may be amended.

A new investigation may be started where potential breaches of the Code are identified in respect of other elected members.

It is possible to discontinue an investigation if it is considered that the requirements of the two-stage test are no longer met.

When the Investigating Officer is satisfied that all reasonable and proportionate enquiries have been made the evidence gathered and to be relied upon is shared with the accused member.

The accused member will be given the opportunity to respond to the complaint(s) and the evidence gathered in an interview.

When the investigation is complete, the evidence will be reviewed and the outcome of the investigation determined.

The outcome of the investigation may be that:

- a) there is no evidence of a breach of the Code
- b) no action needs to be taken
- c) a report on the matter is to be sent to the Monitoring Officer for consideration by the Standards Committee
- d) a report on the matter is to be sent to the President of the Adjudication Panel for Wales for determination by a tribunal

The complainant, accused member and Monitoring Officer or Clerk of the relevant authority will be advised by letter if a decision is made to conclude an investigation under a) and b) above.

In cases where a decision is made to conclude an investigation under c) and d) above a draft report is issued to the accused member. Any comments received are considered and the report and its conclusions reviewed, before a final report is issued.

Reviews of Decisions

Complainants may request a review of a PSOW decision in writing, within 20 days of receiving it. They will need to demonstrate that there is new evidence to consider or that PSOW has failed to take proper account of information already provided. Requests for review are forwarded to PSOW's Review and Service Quality Officer, for consideration.

Challenges to a decision to conclude an investigation under c) and d) above cannot normally be considered as the Ombudsman function is at an end and he is unable to re-consider a report.

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