



# Code of Conduct - Information for members

## Introduction

This factsheet explains what happens when we receive a complaint about the conduct or behaviour of members and co-opted members of

- local authorities
- community councils
- fire & rescue authorities
- national park authorities and
- police and crime panels in Wales.

It does not cover every detail of our procedures, a summary of which is available on the '[How to Complain](#)' page, available under the 'Making A Complaint' tab.

## New complaints

All new complaints are considered by our Code of Conduct Team.

When a new complaint is received about you we will notify you about the complaint and send you a copy. We will share the complaint with the Monitoring Officer and Clerk (in the case of a Community Council).

We will examine each complaint, and any supporting information, against a two stage test.

At this stage there is no requirement for you to respond to the allegations. You have the option to wait until the Ombudsman has completed the initial assessment stage and has decided whether the complaint should be investigated or not.

At the first stage, we will consider whether there is direct evidence that a breach of the Code of Conduct may have occurred.

At the second stage we will 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, or 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.

When we have received sufficient information to assess the complaint, we will aim to make a decision on whether we will investigate the complaint within six weeks.

## **If we cannot accept the complaint**

If a complaint does not meet the requirements of the two stage test, we will notify you of our decision in writing. We will share the decision with the Monitoring Officer (who may share it with their Standards Committee) and Clerk (in the case of a Community Council).

## **If we decide to investigate the complaint**

If we decide to investigate the complaint, we will 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 or identify any witnesses you feel should be contacted early in the course of the investigation so that these may be promptly resolved or considered. The investigation will be conducted by one of our Investigation Officers.

Our investigations are conducted in private. You are therefore asked not to contact or discuss the complaint with any potential witnesses or persons who may be involved in the matter, whether directly or indirectly, this is to avoid any prejudice to the investigation. Conduct of this kind may amount to a breach of the Code.

Where we receive a request from the media or a third party for information relating to a complaint received and/or an investigation, we will only confirm that we have received a complaint if we are investigating it. We will not share any further details.

The Investigation Officer 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 many 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 Investigation Officer will review the evidence gathered and decide whether it is supportive of a breach of the Code and whether it is in the public interest to continue with the investigation. If so, we will send to you copies of the relevant evidence gathered, together with an invitation to attend an interview. The information provided to you in advance of or during your interview will be disclosed to you for the purposes of our investigation in accordance with the Local Government Act 2000. It should be held in strictest confidence and should not be shared with anyone other than a legal or other adviser. Further disclosure may amount to a breach of the Code.

In addition you should not discuss the evidence you intend to provide at interview or contained within any witness statement or document provided with persons who may be involved in the investigation, whether directly or indirectly. Such

contact may prejudice our investigation and be construed as a similar breach of the Code.

Interviews will be recorded and will be conducted face-to-face (in person) or using Microsoft Teams, unless there are exceptional circumstances. Detailed information about the interview process can be found in our factsheet 'Code of Conduct – 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 an independent person present for support. If you fail to comply with any request made by the Investigation Officer in connection with an investigation this may amount to a breach of the Code.

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.

We may determine in some circumstances that no further action is appropriate. Again written reasons for this decision will be sent to all parties.

Where we find that a complaint is justified and it is also considered to be in the public interest to do so, we 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 a draft version of the report within a set timescale. The report will set out the findings of fact established during the investigation, any disputed facts and analysis of them and the Ombudsman's provisional conclusions and findings. This stage of the investigation process is intended to provide you with the opportunity to review and comments on all of the sections of the draft report. We

will give due consideration to any comments made before the report is finalised and these comments may be incorporated into the final report.

A copy of our final report will be sent to you. We will notify the complainant of our conclusions, and we will provide a summary of the report by way of information. We will not disclose the final report 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. However, you should be aware that a complainant can ask (within twenty working days) for us to review a decision not to investigate the complaint. We will not re-open a complaint solely because the complainant disagrees with our decision. If however following review a contrary decision is taken we will write to you to explain this.

## **Contact us**

If you would like more information, please [contact us](#) on 0300 790 0203.

Also available in Welsh.