

# **Want to complain that a local authority councillor has broken the code of conduct?**

**- You and the Ombudsman**





## Who we are

At Public Services Ombudsman for Wales, we have legal powers to look into complaints about public services in Wales. We also investigate complaints that local government councillors have breached their authority's code of conduct. We are independent of all government bodies and our services is impartial and free of charge.

We can consider complaints about the behaviour of members of:

- county and county borough council;
- community councils
- fire authorities, and national park authorities; and
- police and crime panels.

All these authorities have a code of conduct which sets out in detail how members must follow recognised principles of behaviour in public life.

## Who can make the complaint and what can you complain about?

Anyone can make a complaint, as long as they have direct knowledge of the behaviour they are complaining about.

If you are a councillor, under your authority's code you must report any evidence which you have of a fellow councillor breaking the code. If you are a county councillor and your authority has a local resolution process and you want to make a complaint against another councillor in your authority, you should first of all make your complaint to your authority's Monitoring Officer. The reason for this is that it may be that your complaint can be resolved locally without the need for the us to be involved. You must nevertheless remember that you also have a duty under the code not to make complaints which are vexatious (that is, they must not be made just to make mischief).

Examples of ways in which a member may break an authority's code of conduct include:

- behaving in a way that negatively affects their authority's reputation;
- using their position unfairly to gain an advantage for themselves or someone else - or to do someone else down;
- improper use of their authority's resources;
- failing to declare an interest;
- bullying behaviour;
- failing to treat everybody equally; and
- revealing confidential information about individuals without good reason.



## What we cannot investigate

We cannot investigate:

- Complaints about the behaviour of individual employees of an authority. (But if their behaviour led to you being unfairly treated, or receiving a bad service, you can complain about the authority itself. There is a separate leaflet to help you to do this [here](#).)
- Complaints that are not made in writing, or are made anonymously.

## How do you make a complaint?

- You must be prepared for your name and what you say in your complaint to be passed on to the member concerned and to the authority. You must also be prepared for the possibility that it may become public knowledge. You may need to be interviewed as part of any investigation.
- Your complaint must be in writing, preferably using the [form](#) on our website. If you are unable to do this yourself, please contact us on 0300 790 0203. The only exception to this is if you are making a whistleblowing complaint.
- You must tell us specifically what you believe the member has done which has broken their authority's code of conduct. (You have to give some direct evidence of this – we will not investigate a complaint which is based on what someone else has told you.)

## What happens after you have filled in the complaint form and returned it to us?

We will write to acknowledge we have received your complaint. We will then assess it to decide if we will investigate it.


Sometimes, we may need to get in touch if some aspect of your complaint is not clear. If we decide not to investigate, we will tell you the reason. If we decide to investigate, we will let you know when we have started, and let you know the outcome.

We can decide whether we will investigate any complaint. Some of the complaints we receive are not serious enough to need investigating.

A number of the complaints which come to us are about rude or controversial things that members have said. The code of conduct is not meant to prevent robust political debate.

In deciding whether to investigate a complaint of a breach of the code we apply a two-stage test:

- first we look to see whether there is evidence that a breach actually took place;
- if there is, we then consider whether the breach alleged, if proved, would be likely to lead to a sanction being imposed on the member. In making our decision, we take account of the outcomes of previous cases considered by standards committees and Adjudication Panels across Wales.



If we conclude that the first stage of the two-stage test is met but not the second stage we will write to the relevant local authority Monitoring Officer stating that we do not intend to investigate the complaint. We will ask the Monitoring Officer whether they wish to carry out a local investigation. Where the Monitoring Officer agrees that an investigation is not called for the complainant will be told of the decision not to investigate. If the Monitoring Officer says that a local investigation is appropriate, then as allowed by the law, the matter will be passed to the Monitoring Officer for their own local investigation.

## **What are the possible outcomes of an investigation?**

We will investigate the matter thoroughly and fairly. We will act as quickly as possible. The time taken to complete an investigation will vary according to how complicated it is. Normally it will be completed within nine months. We will keep in touch with you and let you know what progress is being made. If we think it is appropriate, we can end our investigation at any time.


Once our investigation is complete, we may decide that there is no evidence that the code has been broken, or decide that no further action needs to be taken.

If we decide that there is enough evidence to do so, we will send a formal report either to the authority's standards committee or, depending on the circumstances, to the Adjudication Panel for Wales. You might be asked to give evidence to them. They will then decide if the code of conduct has been broken and, if so, what penalty to give the member concerned. The maximum penalty that a standards committee can apply is suspension for six months and the maximum that a tribunal of the Adjudication Panel can determine is five years' disqualification from office.

## Communicating with us

We recognise that different people prefer to communicate with us in different ways. For example, some prefer more contact by telephone rather than in writing and some people prefer information from us in different formats such as on tape or CD. Others have different language preferences (this leaflet is available in Arabic, Bengali, Cantonese, French, Hindi, Polish, Somali and Urdu). Let us know what your requirements are and we will do our very best to meet your needs.

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a complaint.



We do not view behaviour as unacceptable just because someone is forceful or determined.

We believe that all complainants should have the right to be heard, understood and respected. However, our staff also have the same rights. We, therefore, expect you to be polite and courteous in your dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence.

## **How to contact us**

Phone 0300 790 0203

E-mail [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

Visit the website [www.ombudsman.wales](http://www.ombudsman.wales)

Write to: Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae, Pencoed CF35 5LJ

You can also follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

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