



**Ombwdsmon
Ombudsman**
Cymru • Wales

Code of Conduct Complaints Process - Summary

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.
This document is also available in Welsh.

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1. Introduction

1.1 This document sets out our process for considering complaints about breaches of the Code of Conduct by members and co-opted members of:

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

2. Pre Assessment

2.1 All complaints and enquiries are received by the Intake Team.

2.2 The Intake Team 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). The complainant must be also prepared to give spoken evidence in support of their complaint to an authority's Standards Committee or a case tribunal appointed to consider any report that we issue.

2.3 Where the information provided and/or copy documents within the complaint relate to a third party, the Intake Team may need to obtain a declaration from that third party for it to be considered as part of the complaint submitted.

3. Assessment

3.1. The complaint is then passed to the Code of Conduct Team. An Investigation Officer will determine whether the complaint will be investigated. To make this decision, they will assess the complaint against our published two stage test:

- the evidential test is when we will consider if there is direct evidence that a breach of the Code took place.

- the public interest test is when we will consider if an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.
- 3.2. If the complaint fails to meet either step of the two stage test, the Investigation Officer will consider whether:
- we need further information from the complainant to support the allegation made.
 - we should refer the matter to the Monitoring Officer/Clerk of the relevant authority for consideration under its local resolution process (where appropriate).
- 3.3. If neither of these apply, we will reject the complaint. The Investigation Officer will write to the complainant, the accused member, Monitoring Officer and the Clerk to the Town or Community Council (where appropriate), to advise them of the decision and the file will be closed.
- 3.4. If the Investigation Officer considers the two stage test is met and an investigation is agreed by the Ombudsman, they will write to the accused member, Monitoring Officer and where appropriate the Clerk. We will outline the scope of the investigation and share a redacted copy of the complaint received. 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.
- 3.5. The Investigation Officer will also ask about the language preference (English or Welsh) for the complainant, the accused member and the Clerk to the Town or Community Council (where appropriate).

4. Investigation

- 4.1 The Investigation Officer will consider all the information provided by the complainant and will make enquiries of, or seek information from, any person or body considered appropriate.
- 4.2 We may amend the direction and scope of an investigation.

- 4.3 We may start a new investigation if we identify potential breaches of the Code in respect of other elected members.
- 4.4 We may discontinue an investigation if we consider that the requirements of the two stage test are no longer met.
- 4.5 When the Investigating Officer is satisfied that they have made all reasonable and proportionate enquiries, they will share the evidence gathered which is likely to be relied upon for concluding the investigation with the accused member.
- 4.6 We will give the accused member the opportunity to respond to the complaint(s), and the evidence gathered, in an interview.
- 4.7 When the investigation is complete, we will review the evidence and determine the outcome of the investigation.
- 4.8 The outcome of the investigation may be that:
- a) there is no evidence of a breach of the Code
 - b) we need to take no further action
 - c) we send a report on the matter to the Monitoring Officer for consideration by the Standards Committee
 - d) we send a report on the matter to the President of the Adjudication Panel for Wales for determination by a tribunal
- 4.9 We will advise the complainant, accused member, Monitoring Officer and Clerk of the relevant authority (where appropriate), by letter, if we make a decision to conclude an investigation under a) and b) above.
- 4.10 In cases where we decide to conclude an investigation under c) and d) above, we will issue a draft report to the accused member. We will consider any comments that they may make and we will review the report and its conclusions before we issue a final

report. A copy of the final report will be shared with accused member, Monitoring Officer and Clerk of the relevant authority (where appropriate). A summary will be sent to the complainant.

5. Review

5.1 Complainants may request a review of our decision in writing, within 20 days of receiving it.

5.2 They will need to demonstrate that we have failed to take proper account of information already provided or available.

5.3 If a review request on a Code case includes 'new' information that includes witness information or statements, then complainants will be asked to make a new complaint.

5.4 Where a review is requested of an investigation decision we will inform the accused member, Monitoring Officer and Clerk (where appropriate) and give them a chance to comment.

5.5 Requests for review are forwarded to our Lead Review Officer, for consideration.

5.6 The accused member, Monitoring Officer and Clerk (where appropriate) will also be notified of the outcome of the review.

5.7 If we concluded an investigation under c) and d) above, we normally cannot consider challenges to our decision.

6. Publication

6.1 This document will be reviewed every 2 years and published internally and externally.

6.2 All queries about this document can be directed to policycontrol@ombudsman.wales