

What to expect if you're subject to a Code of Conduct complaint

1. How is a complaint made?

A complaint is usually made by means of a completed complaint form. A copy of the complaint form is available to download from the Council website [here](#).

The monitoring officer (MO) will then apply an initial filter to the complaint – for example, to check that it is actually against a serving councillor, that they were in office at the time of the alleged incident and that the matter if proven would be capable of being a breach of the Code. If the complaint does not meet these legal tests the complainant will be told that no further action can be taken. The MO will keep a record of all complaints made including those which do not pass the initial filter.

2. How will I be notified of the complaint?

If the complaint passes the initial filter the MO will notify you of the complaint and send you a copy (or relevant extracts) and the process to be followed within three working days unless there are compelling reasons not to do so. You will also be asked to send any relevant comments to the MO within 10 working days from when the MO tells you about the complaint. In parish and town council cases the MO may also notify the clerk and ask them for any relevant factual information. The MO may refer some complaints to a sub-committee of the Joint Standards Committee (JSC) in which case you will also be told that the JSC will be making the initial decision in your case.

3. Will I know who has made the complaint?

You will usually be informed of the complainant's identity. However, the MO, in consultation with an independent person (IP), may withhold the complainant's identity if they are satisfied that there are reasonable grounds for granting confidentiality.

Anonymous complaints will not be accepted unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously should be taken forward.

4. When may the complainant be granted confidentiality?

Requests for confidentiality will be considered on a case-by-case basis but reasonable grounds may include a belief that the complainant or any witness to the complaint may be at risk of physical harm or intimidation, or that their employment may be jeopardised if their identity is disclosed.

5. How will the complaint to be considered?

At the end of the 10 working days from sending you the complaint the MO (or JSC) will decide:

- a. to take no further action; or
- b. to try to resolve the matter informally; or
- c. to refer the matter for investigation.

Before taking this decision the MO will ask an IP for their views on what action should be taken and will also consult with the chair or vice chair of the Joint Standards Committee unless the matter is being decided by the JSC.

In deciding what action is necessary the MO (or the JSC) will consider the following non - exclusive factors:

- a. does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?;
- b. are there alternative, more appropriate, remedies that should be explored first?;
- c. where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse or “unparliamentary” language) may be given;
- d. is the complaint in the view of the MO malicious, politically motivated, or ‘tit for tat’?;
- e. whether an investigation would not be in the public interest or the matter, even if proven, would not warrant any sanction;
- f. whether the complaint is the same as one which has previously been considered and no new material evidence has been submitted within the current administration;
- g. whether the same complaint has been submitted and accepted;
- h. does the complaint relate to conduct in the distant past (over six months before)? This would include any reason why there had been a delay in making the complaint;
- i. does the complaint actually relate to dissatisfaction with a Council (or parish council) decision rather than the specific conduct of an individual?; and
- j. is it about someone who is no longer a councillor or who is seriously ill?

6. What contact can I expect from the MO after the assessment of the complaint?

You will be notified of the MO’s decision, and there is no internal right of appeal against that decision.

A decision notice will be produced as a matter of record but will not be published at this stage though the Council may issue a public statement if details of the complaint are already in the public domain.

7. What happens if the MO seeks to resolve the matter informally?

Where the MO has decided to seek to resolve the matter informally, they may do one or more of the following:

- a. ask you to submit an apology in writing to the complainant;
- b. convene a meeting between you and the complainant in order to try to resolve the issue informally;
- c. notify your group leader (if you are a member of a political group) and suggest that they may wish to take some internal group action;
- d. suggest that you undergo relevant training;
- e. other such action that the MO deems appropriate.

The MO will decide on a timeframe within which the informal resolution must be completed to an acceptable standard.

If either you or the complainant do not engage with the informal resolution, or the MO deems the action taken by you is insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with an IP, whether the case should be closed, whether an investigation is necessary or whether some other action should be taken. If the MO and the IP do not agree the chair or vice chair of the JSC will be asked to decide.

The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution and will report to the JSC on the outcome of any informal resolutions proposed and/or implemented.

8. What happens if the matter is referred for investigation?

Where a matter is referred for investigation, the MO may carry out the investigation themselves, delegate it to another officer or contract it out to an outside body.

The investigation must normally be completed within 3 months. If an extension of time is needed the MO will notify you of any extension with reasons.

You will be notified of who the relevant IP is for the case and you may seek their views at any stage during the investigation.

At any time while the investigation is underway you, the MO or the complainant may ask for an informal resolution. The MO will consult with the relevant IP whether to agree with the request.

Before concluding the investigation, a draft report will be produced and you, the complainant and the IP will be asked to comment. Witnesses may also be asked to comment on parts of the draft report relevant to them.

There may be exceptional circumstances when the MO decides that a case should be closed before a draft or final report has been produced due to a significant change in circumstances. In such cases the MO will consult the IP before closing the file. A record of the complaint will be kept on file.

At the end of the investigation the MO (or JSC) may conclude:

- a. that there has been no breach of the Code;
- b. to seek to resolve the matter informally; or
- c. to refer the matter to the JSC for determination.

In cases where the MO (or JSC) has concluded that there has been no breach of the Code you will be told of the decision and there is no right of internal appeal against that decision. The MO will report the finding to the JSC and issue a public decision notice.

Where the MO decides to seek to resolve the matter informally, they will seek the views of the IP and complainant before concluding whether such an outcome is appropriate. If you or the complainant do not engage with the informal resolution, the MO deems the action taken by you insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with the IP and chair or vice chair of the JSC, whether the case should be closed or whether a hearing is necessary. The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution and any further steps.

9. Will I have to attend a hearing?

A matter referred for determination by the MO will be heard by a hearings panel, made up of members of the JSC. You will be invited to attend the hearing and may ask somebody to help you with your case. You will also be asked if you want any witnesses to come to the hearing to help your case.

At the start of the hearing the hearings panel will decide whether the hearing will be in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. The hearings panel will always, however, retire in private to consider its findings and possible action.

The IP will give their views to the hearings panel before it makes a finding on the case.

The hearings panel may decide:

- a. that there has been no breach of the Code;
- b. that there has been a breach but to take no further action; or
- c. that there has been a breach and a relevant sanction should be imposed or recommended.

If the hearings panel decides that a relevant sanction should be imposed or recommended it may impose or recommend any one or more of the following:

- a. report its findings in respect of your conduct to Council (or the relevant parish council);
- b. issue (or recommend to the parish council to issue) a formal censure;
- c. recommend to your group leader (or in the case of un-grouped councillors, recommend to Council) that you be removed from any or all committees or sub-committees of the Council (or recommend such action to the parish council);
- d. recommend to the Leader of the Council that you be removed from positions of responsibility.
- e. instruct the MO to (or recommend that the parish council) arrange training for you;
- f. recommend to Council (or recommend to the parish council) that you be removed from all outside appointments to which you have

- been appointed or nominated by the Council (or by the parish council);
- g. recommend to Council (or recommend to the parish council) that it withdraws facilities provided to you by the Council for a specified period, such as a computer, website and/or email and internet access; or
 - h. recommend to Council (or recommend that the parish council) that it excludes you from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings and/or restricts contact with officers to named officers only;
 - i. if relevant, recommend to the Council that you be removed from your role as Leader of the Council;
 - j. if relevant recommend to the secretary or appropriate official of the group that you be removed as Group Leader or other position of responsibility.

10. What can I do if I disagree with the decision of the hearing panel?

There is no right of internal appeal against that decision.

11. Are the outcomes of the hearings published?

You, the complainant (and the clerk in parish cases) will be told of the outcome and a decision notice will be published on the Council website within 5 working days of the hearings panel decision.

12. Who should I go to if I have a question about the process?

The MO or DMO should be able to answer any questions you have about the process.