

ETHICAL STANDARDS IN PUBLIC LIFE
OFFICE OF THE CHIEF INVESTIGATING OFFICER

**Complaints against
COUNCILLORS
of local authorities and
MEMBERS
of public bodies**

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THIS LEAFLET TELLS YOU:

Who we are and what we do

Who you can complain about

What we can and cannot investigate

What your complaint should include

How we investigate and decide your complaint

How we deal with your complaint (an overview)

WHO WE ARE AND WHAT WE DO

The Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the 2000 Act”) set up two separate legal bodies - the Chief Investigating Officer (“CIO”) and the Standards Commission for Scotland (“the Commission”).

The 2000 Act requires the Scottish Ministers to issue a Code of Conduct for councillors (which came into force on 1 May 2003) and a Model Code of Conduct for members of devolved public bodies (the individual Codes for most of the devolved public bodies also came into force on 1 May 2003). The Codes play a vital role in setting out, openly and clearly, the standards of conduct that must be applied by councillors and members of public bodies in order to reinforce and strengthen public confidence in those appointed to public office.

The CIO is appointed by the Scottish Ministers to investigate and report on complaints alleging a breach of the relevant Code. The CIO also has responsibility for deciding whether to report the outcome of any investigation to the Commission.

Where the CIO has concluded a breach of the Code has been found, the Commission then decides whether or not to hold a hearing. If a hearing is held, the Commission will decide whether there has been a breach and if so, what sanction (censure, suspension or disqualification) should be imposed. The Commission also has responsibility for issuing general guidance in relation to the Codes.

WHO YOU CAN COMPLAIN ABOUT

Councillors – you can complain about misconduct by a councillor in any of Scotland’s 32 local authorities.

Members of public bodies – you can complain about misconduct by a member of a public body designated under the 2000 Act. A full list of the relevant public bodies is available from the Commission’s web-site. They include:

- National public bodies
- National park authorities
- Further education colleges
- NHS boards
- Regional transport partnerships
- Community justice authorities

WHAT WE CAN INVESTIGATE

The following are examples of misconduct that could constitute a breach of the relevant Codes of Conduct:

- failure to register certain financial or non-financial interests;
- failure to declare financial or non-financial interests at business meetings;
- financial misconduct (for example matters relating to allowances),
- inappropriate acceptance of gifts or hospitality,
- misuse of council or public body facilities;
- disrespect towards employees;
- disrespect towards other councillors or members;
- breach of confidentiality;
- misconduct relating to lobbying;
- misconduct by a councillor relating to decisions on individual applications (for example planning and licensing applications).

WHAT WE CANNOT INVESTIGATE

The following are examples of complaints outside the remit of the CIO which we could not investigate:

- complaints about a council or public body as an organisation;
- complaints about corporate failure to meet service standards;
- complaints about misconduct by an employee of a council or public body;
- complaints about misconduct by a community councillor;
- complaints involving private conduct (that is when a councillor is not acting as a councillor);
- complaints about a councillor before they were elected or member before they were appointed;
- complaints which are not about the type of behaviour covered by the relevant Codes.

WHAT YOUR COMPLAINT SHOULD INCLUDE

Your complaint should be made in writing, be signed by you and include the following:

- the name of the councillor or member you are complaining about;
- the council or public body on which the person serves;
- a description of the circumstances of your complaint including the date or dates on which the alleged misconduct occurred, and the details of any witnesses;
- the part(s) of the Code which you feel have been breached;
- any evidence or documents which support your complaint;
- your name, address and telephone number.

You can complain by letter or by using the complaint form available from the Office of the CIO (or which you can download from the web-site).

HOW WE INVESTIGATE AND DECIDE YOUR COMPLAINT

The CIO will consider your complaint and may gather any relevant evidence – in writing or by interview – that he feels necessary to make a decision whether or not there has been a breach of the Code. The flow chart over the page gives an overview of the investigation and decision process.

In cases where the CIO has concluded there has been no breach of the Code, he may publish a summary of his decision on your complaint on the web-site when it is considered the decision would be of wider public interest.

Where the CIO has concluded that there has been a breach of the Code, he reports that formally to the Commission. It is then the Commission who deals with your complaint. The Commission may publish its decision on your complaint on the web-site.

The CIO and the Commission will monitor the progress of complaints. At the end of each financial year the CIO and the Commission will prepare management information for the joint CIO/Commission annual report which is publicly available.

HOW WE DEAL WITH YOUR COMPLAINT (AN OVERVIEW)

The flow chart summarises how the Office of the CIO will process your complaint. For full details please see our Investigation Guidelines (which you can download from our web-site).

