

At the end of the investigation

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What are the findings an ethical standards officer can reach?

There are four possible findings which an ethical standards officer can make, defined by Section 59(4) of the Local Government Act 2000. For complaints made after 1 April 2008:

- a) that there has been no failure to comply with the code of conduct of the relevant authority concerned
- b) that there has been such a failure to comply but no action needs to be taken
- c) the matter should be referred to the monitoring officer of the relevant authority for determination by the local standards committee
- d) the matter should be referred to the Adjudication Panel for England for adjudication by a tribunal

The ethical standards officer will take any relevant factors into account before deciding on the appropriate finding. The likelihood of repeat or continuing misconduct would be an aggravating factor. A genuine expression of regret or the acceptance of personal responsibility for the misconduct would be mitigating factors.

Ethical standards officers will set out their decision on the finding in a report or letter. This will provide reasons for their decision, including whether they consider there is a breach of the Code of Conduct. However, this is their opinion after a thorough investigation. Only a hearing of the Adjudication Panel for England, or a local authority's standards committee to which the case is referred, can reach a legal determination as to whether there has been a breach of the Code of Conduct, and impose a sanction if appropriate.

Who will be told the final outcome of the investigation?

Where the finding is either that there has not been a failure to comply with the Code or no action is required, the ethical standards officer will send a copy of the final report to:

- the member being investigated
- the person who made the allegation
- the monitoring officer of the relevant authority

If the case concerns a town or parish councillor, the ethical standards officer will inform the clerk of the outcome but will not send them a copy of the report.

If the finding is that the matter should be referred for determination by the local standards committee, the ethical standards officer will send the final report only to the monitoring officer. The

ethical standards officer will then advise the member being investigated and the person who made the allegation that they have done so. And again, in the case of town or parish councillors, the ethical standards officer will inform the clerk.

The monitoring officer will send the final report to the member being investigated and the standards committee members selected for the hearing panel.

Finally, if the finding is that the matter should be referred to the Adjudication Panel for England, the ethical standards officer will send the final report to the president of the Adjudication Panel. A copy of the final report will also be sent to the monitoring officer of the relevant authority. The ethical standards officer will then advise the member being investigated and the person who made the allegation that they have done so. In the case of town or parish councillors, they will inform the clerk.

The Adjudication Panel will send the final report to the member being investigated in accordance with their process. Please visit the website of the Adjudication Panel for England for details of the process they follow: www.adjudicationpanel.co.uk.

When are the ethical standards officer's findings made public?

Where the finding is either that there has not been a failure to comply with the Code or no action is required, we will publish a summary of the case on our website as soon as possible after the final report has been sent to the relevant parties. This is usually within a month. In addition, the ethical standards officer may, depending on the circumstances, use their powers under the Local Government Act 2000 to publish a summary of the report in the relevant authority's local newspapers.

If the finding is that the matter should be referred for determination by the Adjudication Panel for England or local standards committee, we will publish the ethical standards officer's decision on our website shortly after the relevant parties have been notified. Summaries of these cases will be published as soon as possible after we have received the full written decision of the relevant hearing panel.

Where the ethical standards officer has decided that there is no breach of the Code or no action should be taken, the report may be made available to the standards committee for information to assist them in carrying out their functions.

What happens if the matter is referred to the local standards committee?

When an ethical standards officer refers a matter to the monitoring officer of the relevant authority for local determination, the monitoring officer will arrange a standards committee hearing. The committee will consider the ethical standards officer's report and decide if it thinks there has been a failure to comply with the Code of Conduct. If it does, the committee has a range of sanctions at its disposal up to and including suspending a member for six months. The member may appeal against the finding to the Adjudication Panel for England.

The standards committee will announce its decision at the hearing, and afterwards will arrange to publish a notice of decision in a local newspaper. If the committee decides there is no breach of the Code, the member being investigated may ask the committee not to publish the notice.

However, there is nothing to stop any third party from publishing details of the case which emerge during the public hearing, even if the authority withholds its notice.

A summary of the case will also be published on our website shortly after we receive the standards committee's full written decision.

What happens if the matter is referred to the Adjudication Panel for England?

When a matter is referred to the Adjudication Panel, a hearing is held to consider the alleged breach of the Code.

The Adjudication Panel for England is independent of the Standards Board for England. It will determine whether there has been a failure to comply with the Code of Conduct and has a range of sanctions available to it. This includes suspension of a member from office for up to one year, and disqualification from standing or acting as a member for up to five years.

If the Adjudication Panel rules against the member, they have the right to appeal against the finding to the high court.

The Adjudication Panel will publish its findings on its website and may choose to place a notice of its decision in a local paper.

A summary of the case will also appear on our website shortly after we receive the Adjudication Panel's full written decision.

More information about the Adjudication Panel for England can be found at www.adjudicationpanel.co.uk.

To whom may information obtained by an ethical standards officer be disclosed?

Section 63 of the Local Government Act 2000 limits the disclosure of information obtained during an investigation. Any person who discloses information in breach of Section 63 is guilty of an offence.

The ethical standards officer may need to disclose information during the course of an investigation to the parties concerned or to a witness. They may also disclose information to certain organisations, such as the Audit Commission and the Local Government Ombudsman, under sections 63 and 67 of the Local Government Act 2000.

Disclosure by the others of information gathered during an investigation may be made in the following circumstances:

- a) The person or persons to whom the information relates has given specific consent to its disclosure.
- b) The information has previously been disclosed to the public with lawful authority.
- c) For the purposes of seeking advice in relation to the investigation from a solicitor or other professional adviser.

However, anyone who has a copy of a report should consider carefully before making any disclosure of information gathered during the investigation, seeking professional advice from a solicitor so as to ensure they are acting lawfully.

Is there a right of appeal against an ethical standards officer's finding?

There is no right of appeal against anything that appears in the ethical standards officer's report, although all parties will have had the opportunity to comment on the draft report.

It may be possible to seek judicial review of the ethical standards officer's finding. There are time limits on making an application for judicial review and we strongly recommend that legal advice be sought as soon as possible when considering action of this kind.

Can an ethical standards officer cease an investigation without reaching a finding?

Once an ethical standards officer has begun an investigation, they may only cease without reaching a finding if they refer the matter to the monitoring officer of the relevant authority for investigation at the local level or they issue a direction to the monitoring officer to take other steps to deal with the allegation. An ethical standards officer may not cease an investigation by any other means.