

[View online](#)

Local Government &
Social Care
OMBUDSMAN

Ombudsman link

Public Report: Standards complaints

Council investigation into local councillor's conduct flawed



Councils need to ensure standards investigations into the actions of councillors are conducted fairly and properly.

We have issued a [report about the way Teignbridge District Council investigated the actions of a councillor](#) after the council alleged he had acted contrary to its Code of Conduct.

Who should read this report?

- Monitoring officers who are responsible for the council's standards complaints investigation processes.
- Council officers who deal with complaints about the conduct of local councillors.
- Local councillors who sit on standards committees.

What happened?

We found fault with a number of aspects of the council's investigation. We found the investigation was not prompted by a formal written complaint and was contrary to the law. The council also failed to give the councillor enough information about his alleged breaches of its Code.

The council introduced new allegations during the process, but the independent investigator appointed to look at the case did not make it clear to the councillor whether these were part of the investigation.

We also found the inquiry into the councillor's conduct was conflated with accusations levelled at another councillor who was being investigated at the same time.

The council failed to reflect on the investigation and consider whether due process had been followed after the councillor raised legitimate concerns about the way the

investigation was being carried out. It also failed to consider the councillor's enhanced right to free speech as an elected representative, which was relevant when the council considered his justification for certain comments he acknowledged making or posted on social media.

We have made a number of recommendations to improve the council's processes following the investigation, but the council has not yet agreed to accept these.

Michael King, Local Government and Social Care Ombudsman, said:

"Local councillors have a key role in scrutinising their authorities' actions, and have an enhanced right of free speech to ask what might at times appear to be uncomfortable questions. Councils need to bear this in mind when deciding what constitutes a breach of their Code of Conduct."

"While both officers and members have a right to be treated with dignity and respect at work, and councils' desire to do more to protect them from poor treatment is to be encouraged, they still need to carry out investigations into councillor standards fairly and properly."

"I look forward to the council considering my report at a senior decision-making level and hope it accepts the recommendations I have made to improve its processes and procedures."

Can the Ombudsman investigate complaints from councillors?

We can investigate complaints from locally elected councillors where they allege they have suffered a personal injustice because of actions taken by a body in our jurisdiction. This is because where a councillor makes a complaint of this type, they are not doing so on behalf of the council or another public body, but in their own personal capacity. They are also not an employee, governed by a personnel relationship with a council, where there are legal limits on what we can investigate.

What can your council learn from this?

In the report we recognise that councils have a responsibility to protect the wellbeing of officers. This includes protecting them from overly critical comments from local councillors. However this needs to be balanced against a local councillor's right to freedom of expression which includes legitimate questioning and criticism of a council's actions.

We have recommended Teignbridge District Council has a written procedure for officers and any independent investigators asked to consider standards complaints that should include:

- having a record of complaints being made in writing;
- having a clear written record of consultation with an Independent Person to include their response;
- recording when the written complaint has been shared with the councillor complained of, or a clear written record as to the reasons why not;
- ensuring that where an investigation expands to consider further allegations arising during the investigation, it keeps a clear written

record of and a record that this has been explained to the councillor complained about; and

- that in all appropriate cases it considers the rights of the councillor complained about to free expression under Article 10 of the Human Rights Act, as part of any investigation report and subsequent committee decision making.

Further information

In the report we said the council had failed to have regard to the local councillor's right to freedom of expression.

We have issued a [report on human rights](#) which explains why it is important that councils treat the people they serve with fairness, respect and dignity. This contains important guidance on how councils should consider human rights when delivering services as well as guidance for local councillors responsible for scrutinising the way councils carry out their functions.



We look at individual complaints about local public services and all registerable social care providers in England.

We remedy injustice and share learning from investigations to improve services. When we find a council or care provider has done something wrong, we recommend how it should put it right. We are free to use and make our decisions independently.

Find out more about us at www.lgo.org.uk

[Manage preferences or unsubscribe](#)
[Contact us](#)

