



Hampshire ALC Key Topic Note – Dealing with complaints

Councils will sometimes receive complaints regarding their services or actions and the guidance below sets out our advice on how to deal with the different types of complaints.

The council may receive the following types of complaint:

- Complaint about the actions of an individual councillor
- Complaint about an administrative process or an error such as an accounting error or a council's breach of standing orders
- Complaint about an individual member of staff
- Complaint where financial compensation is sought, such as personal injury or a legal claim

A complaint may be made by anyone who lives in the parish/town but also by anyone who is affected by a decision that the council has made.

Code of conduct

Every council has a duty under the [Localism Act 2011, s.27\(1\)](#) to promote and maintain high standards of conduct by members and co-opted members of the authority. A council must adopt a code of conduct that is expected of their members and co-opted members ([Localism Act 2011, s.27\(2\)](#)).

A co-opted member, described in the Localism Act, is a person who is not a councillor but sits on any committee or sub-committee of the council or represents the council on any joint committee or sub-committee and who is entitled to vote on any question that is decided at any meeting of that committee or sub-committee.

It is important therefore to ensure that any non-councillor members of committees, sub-committees or working groups are familiar with the code of conduct adopted by the council.

Many councils will adopt their district or unitary authority's code of conduct but council's could choose to adopt a different model such as that provided by the [Local Government Association](#).

Councillors must disclose and register all their pecuniary (financial) interests once co-opted or elected. The [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012 \(S.I. 2012 No. 1464\)](#) specifies the schedule of interests to be disclosed but this will include their employment, land held, contracts/licences held with the council and other interests for both themselves and those of their spouse/partner. The councillor has a duty to update this register when their interests change.

It is a criminal offence to fail to register or disclose a DPI and, if a prosecution is successful, it can result in a fine of £5,000 and disqualification from office for up to 5 years.

Code of conduct complaints

Any member of the public or councillor may raise a code of conduct complaint against an elected or co-opted councillor where they believe a breach of the code of conduct has occurred. The council or the clerk may receive this complaint, but such complaints cannot be investigated or decided by the council. All complaints must be sent to the monitoring officer at the district or unitary authority.

If the council or the clerk receive such a complaint, they should contact the complainant and explain that they are unable to investigate the complaint and give the complainant the details of the monitoring officer. Alternatively, the council or the clerk can pass the complaint directly to the monitoring officer and inform the complainant that this has been done.

Once the complaint has been investigated by the monitoring officer, the clerk may be informed of the outcome. Sanctions are limited, but may include a request for the councillor to attend training or to make a public apology for their actions. In some serious breaches of the code of conduct, a councillor may be formally censured for their conduct which effectively means that the censure is publicised by the district or unitary authority.

It is important to note that members of staff are not subject to the code of conduct.

Complaints about an administrative process or error

Where a complaint is received relating to an administrative process or error, then the complaint should be treated as a complaint against the council and not as a complaint against an individual employee or councillor.

The council must adopt a complaints policy detailing how it will deal with any complaints received. Please see our template complaints policy for an example.

Once a complaint is received, the council should attempt to resolve it informally in the first instance so this may be attempted by either an email, telephone call or perhaps an informal discussion. Many misunderstandings can be dealt with in this way.

If this is not successful, then the council must follow its' adopted policy for the next steps. The policy should set out the steps to be taken which may include an investigation by named individuals (such as the clerk, chairman or a sub-committee of the council).

At all times, the complainant should be kept informed of the progress of their complaint and realistic timescales should be included within the policy.

Once the complaint has been fully investigated, the complainant should be informed of the council's findings and should be offered the opportunity to appeal any decision made.

An investigation should not include all councillors as it is advisable for some councillors to be able to form an appeals panel should it be required, and they should therefore remain objective whilst the complaint is being investigated.

Complaints against an individual member of staff

A complaint received about an individual member of staff should be treated as a complaint against the council in the first instance and the council's complaints policy should be followed.

The investigation may conclude that a member of staff has acted incorrectly or inappropriately, and a disciplinary process may then be required. This should be dealt with in confidence and in accordance with employment legislation, the staff member's contract of employment and the council's adopted disciplinary process. Further information can be found on the [ACAS website](#).

When reporting the outcome of the complaint to the complainant, the council should be mindful of data protection regulations and maintain the confidentiality of the individual member of staff. The council can simply report that their investigation has been completed and steps are now being taken to remedy the issue.

Complaints where financial compensation is sought, such as personal injury or a legal claim

Where a council owns assets, such as open spaces or a playground, it may be on occasion a complainant will contact the council as they have suffered a personal injury and are seeking compensation. Or the council may receive a legal claim for some financial loss. The council must have in place an appropriate insurance policy to deal with such claims and, on receipt of a claim, should contact their insurance company immediately and follow any processes required by them.

Other types of complaint

Where there is a complaint about alleged criminal activity, this should be reported to the police.

The [Audit Commission Act 1998 s.16](#) states that electors have a right to object to the council's accounts and this type of complaint should be referred by the complainant to the external auditor.

Essential Resources

Other useful information relating to this subject can be found in the Hampshire ALC Member Area:

Hampshire ALC Policy Template: Complaints

NALC LTN 9E: Handling Complaints

NALC LTN 22: Disciplinary and Grievance Arrangements

NALC LTN 80: Members Conduct and the Registration and Disclosure of their Interests

This document reflects our advice based on our understanding of the current legislation and guidance and our knowledge of the sector. It is not however intended to be formal legal advice.

For more complex issues we are able to obtain initial specialist advice on legal, employment, financial and planning matters as part of your membership fee. Please contact us to access this service.