



Ethical Standards Commissioner

CONSULTATION QUESTIONNAIRE

A consultation on the Investigations Manual of the
Ethical Standards Commissioner's office

28 September 2022

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CONSULTATION ON THE INVESTIGATIONS MANUAL OF THE ETHICAL STANDARDS COMMISSIONER' OFFICE

Respondent information

This consultation paper invites comments on the Investigations Manual (the “Manual”) of the Ethical Standards Commissioner's office (the “Commissioner's office”) and, in particular, asks those with a role or otherwise having an interest in the complaints handling process whether the processes, targets and aims set out in the Manual aligns with public expectations. This paper should be read in conjunction with the main consultation document, available to download from our website:

<https://www.ethicalstandards.org.uk/publication/consultation-document-investigations-manual>

Comments are invited by **28 November 2022**.

Please complete the details below. This will help ensure we handle your response appropriately. For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Name:	
Address:	
1. Are you responding as (please tick appropriate box):	
1a. An individual (go to 2a/b, 3)?	
1b. On behalf of a group or organisation (go to 2c/d, 3)?	
2. Individuals:	
2a. Do you agree to your response being made public (on the Commissioner's website or otherwise published) (please tick one box)?	
Yes (go to 2b below)	
No	

2b. Where confidentiality is not requested, we may make your response available to the public on the following basis (please tick one box):	
Yes, you may make my response and name available	
Yes, may make my response available, but not my name	
On behalf of groups or organisations:	
2c. Do you agree to your response being made public (on the Commissioner's website or otherwise published) (please tick one box)?	
Yes (go to 2d below)	
No	
2d. Your organisation's name as a respondent may be made available to the public (on the Commissioner's website or otherwise published) unless you request otherwise. Are you content for your response to be made available (please tick one box)?	
Yes, you may make my response and organisation's name available	
Yes, you may make my response available, but not my organisation's name	
Further contact	
3a. We may wish to contact you again in the future to clarify comments you make.	
Are you content for us to do so (please tick one box)?	
Yes	
No	
3b. We may wish to contact you again in the future for consultation or research purposes relating to our investigative procedures. Are you content for us to do so (please tick one box)?	
Yes	
No	

Issues on which Views are Invited

Complaints about Councillors and Members

Q1 – When a complaint is received by the Commissioner’s office, the complaint is assessed against certain criteria for admissibility. If a complaint is assessed and considered inadmissible, a dismissal letter is prepared setting out the reasons why and sent to the Complainer. Should Councillors and Members also be notified when a complaint against them is dismissed because it has been assessed and considered inadmissible?

Q2 – If so, would a copy of the dismissal letter sent to the Complainer (with contact details redacted in accordance with data privacy protection rules) be sufficient notification?

Q3 – Please provide reasons for your responses to Q1 and Q2.

Q4 – At times, the Commissioner's office may receive a complaint which the complainer subsequently requests to withdraw. Should the Commissioner take forward complaints which are withdrawn, if there is a public interest in investigating and reporting on the complaint?

Q5 – If so, what considerations should the Commissioner account for when deciding a complaint is in the public interest to investigate and report, even where that complaint has been withdrawn?

Q6 – Please give reasons for your responses to Q4 and Q5.

Q7 – Investigations take time and require cooperation from the Complainer, Respondent and any witnesses. The Commissioner’s investigative team will contact parties for information to progress with the investigation and will provide an update, currently every 3 months, on the progress of the investigation.

(a) How often should the investigative team be in touch with parties to update on the progress of investigation?

(b) How much time should the investigative team provide for parties to respond to the investigative team’s requests for documentary or other relevant evidence?

(c) At times, no response is received despite repeated requests. Where no response is received for a prolonged period of time and after repeated requests for information, should the Commissioner’s office proceed to conclude the investigation without the requested input?

Q8 – Please give reasons for your responses to Q7(a), (b) and (c)

Q9 – Interviews can be an integral part of the investigative process. The Manual proposes that an interviewee may be contacted in writing by the Investigating Officer in order to confirm any substantive statements shared during the interview or a witness statement prepared from what is discussed at the interview. The interviewee will be invited to respond to the Investigating Officer to confirm or correct the accuracy of such substantive interview statements or witness statements. The interviewee may also be invited to review an interview or witness statement based on the interview, and to sign it to confirm that it is a true reflection of what was said during the interview. Should this proposed approach form a part of the investigative process and are there circumstances in which it should be essential, rather than optional?

Q10 – If so, should all other witnesses be provided with a copy of the interview or witness statement?

Q11 – Please give reasons for your responses to Q9 and Q10.

Q12 – At the end of an investigation, the Commissioner’s office will produce an investigative report (the Report) setting out the background to a complaint, the investigation, the investigative outcomes and an explanation of the Commissioner’s views as to whether a breach of the Code has taken place. The Manual proposes that all Reports, either breach or no breach, are shared with all parties to a complaint (specifically, the complainer, the respondent and the local authority/public body). Should this proposed approach be taken?

Q13– Please give reasons for your views.

Q14 – The Manual proposes a set of proposed timescales and targets for each stage of complaint handling. Should these proposed timescales and targets be adopted or do you feel that others are more appropriate for consideration?

Q15– Please give reasons for your views.

Q16 – Are there any other issues relating to Councillors / Members' complaints handling processes which you wish to raise?

Complaints about MSPs

Q17 – The Manual proposes a set of proposed timescales and targets for each stage of complaint handling. Should these proposed timescales and targets be adopted or do you feel that others are more appropriate for consideration?

Q18– Please give reasons for your views.

Q19 – Are there any other issues relating to MSP complaints handling processes which you wish to raise?

Q20 – Are there any other issues relating to the Manual you wish to raise?

Responses

Responses should be submitted by **28 November 2022**.

They should be sent, ideally by email, to:

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Ethical Standards Commissioner

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