

## **APPENDIX 1**

### **STANDARDS COMMITTEE**

#### **ASSESSMENT CRITERIA**



#### **1.0 INTRODUCTION**

It is intended to set out here the criteria, which the Assessment Sub-Committee and the Review Sub-Committee will apply in conducting their assessments of allegations or requests for review.

All allegations of member misconduct are taken extremely seriously and the Committee seeks to ensure the highest standards of conduct at all times. The initial assessment process determines whether the complaint appears to show that there has been a breach of the Code of Conduct, and then whether:

- A formal investigation (either by the Standards Board for England or locally)
- Whether the authority's Monitoring Officer should be directed to take other appropriate actions in respect of the complaint, or
- Whether the no action should be taken in respect of the complaint

#### **1.2 Local Resolution**

The Standards Committee is aware that investigations are costly and time consuming. Moreover complaints can often be dealt with more effectively if an early resolution of the matter can be achieved.

The Standards Committee would therefore encourage complainants to explore opportunities for local resolution. Any attempts at local resolution do not detract from the complainants right to have their complaint considered by the Sub-Committee, which will continue along the normal timetable for assessment.

#### **2.0 INITIAL TESTS**

The Assessment Sub-Committee must initially be satisfied that the complaint meets the following tests:

- a) Is the complaint about the conduct of a named, elected or co-opted member of the Borough Council or a Parish Council within the Borough?
- b) Was the named member in office at the time the alleged misconduct took place?
- c) Was the Code of Conduct in force at the time the alleged misconduct took place?

- d) If the complaint is proven, would there be a breach of the Code under which the member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

### **3.0 ASSESSMENT**

**3.1** Once the initial tests are satisfied the Sub-Committee must decide on the steps it will take. These are:

**3.2 Direct the Monitoring Officer to investigate.**

A local investigation will normally be appropriate where the alleged conduct is sufficiently serious to merit the imposition of a sanction against the member, but not so serious that it would merit a greater sanction than the authority's Standards Committee could impose following a formal hearing. In practice, this means that a local investigation would not be appropriate where the appropriate sanction is likely to be a suspension for a period of more than 6 months, or disqualification.

**3.3 Refer the matter the Standards Board for England.**

The following factors will be considered by the Sub-Committee to be factors, which support referring the complaint to the Standards Board for England:

- i. That the complaint is so serious that, if proven, the conduct complained of merits a sanction in excess of that which could be imposed by the Standards Committee. In practice this means that the appropriate sanction would be either a suspension from the relevant authority for a period of more than 6 months, or a disqualification from any local authority
- ii. That the investigation required is so extensive that it would impose an unreasonable burden on the authority and/or that any hearing conducted on the basis of that investigation would be unreasonably complex for the Standards Committee.
- iii. That the status of the member against whom the complaint has been made or of the person by whom the complaint has been made is such that either the authority could not conduct a full and impartial investigation and hearing, or that there is likely to be a public perception that the authority could not conduct a full and impartial investigation and hearing

- iv. That so many members of the Standards Committee have a conflict of interest in respect of the matter that the authority is going to be in difficulty in organising an impartial Hearings Panel for the matter
- v. That the complaint raises significant or unresolved legal issues where a national ruling would be helpful
- vi. That the authority itself has an interest in the outcome of the investigation and/or hearing, for example where the report may lead to a judicial review of a decision of the authority
- vii. That there are other exceptional circumstances which would prevent the authority from securing a timely, full and impartial investigation and/or hearing of the matter, or which are likely to give rise to the perception that the authority cannot secure a timely, full and impartial investigation and/or hearing of the matter.

**3.4 Direct the Monitoring Officer to take some other appropriate action.**

The Sub-Committee may direct the Monitoring Officer to take a range of other actions, including providing training for members, securing conciliation or mediation between competing interests, or reviewing procedures to minimise conflict.

In some instances, the conduct complained of may be a symptom of wider conflicts within the authority. A formal investigation and hearing would only deal with the particular complaint and may not resolve such underlying conflicts.

Such alternative action is therefore most suitable where:

- i. The conduct complained of is a symptom of wider underlying conflicts which, if resolved, are likely to lead to further misconduct or allegations of misconduct
- ii. The conduct complained of is apparently common to a number of members of that authority, demonstrating lack of awareness or recognition of the particular provisions of the Code of Conduct.
- iii. The conduct complained of is not so serious that it requires a substantive formal sanction such as suspension or disqualification

- iv. The complaint reveals a lack of guidance, protocols and procedures within the authority, for example on the use of resources or the process of decision-making
- v. The member complained of an the person making the complaint are amenable to engaging in such alternative action, as there is no power to require them to participate

### **3.5 To take no action.**

The following factors are likely to lead the Sub-Committee to decide to take no action in respect of the matter:

- i. The complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat
- ii. The complaint is anonymous. The Sub-Committee can protect the confidentiality of the identity of the complainant where that is justified by a real fear of intimidation or victimisation. Where this is not an obvious risk, the fact that the complainant has not disclosed his/her identity may be taken to indicate that the complaint is less serious, is malicious or politically motivated
- iii. A significant period of time has elapsed since the events, which are the subject of the complaint. This is both because, where a matter is serious, it would be reasonable to expect the complainant to make a complaint promptly, and because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. The Sub-Committee will not normally investigate or take other action where the last event complained of took place more than 6 months prior to the date of the complaint
- iv. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely t be any firm evidence on the matter.

### **4.0 PUBLIC INTEREST**

The Assessment Sub-Committee will determine whether the public interest would be served by referring complaint for investigation or other action. They may consider that the public interest would not be served where a member has died, resigned or is seriously ill. Similarly if a member has offered an apology or other remedial action they may decide that no further action should be taken.

Similarly, if the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely

that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

## **5.0 MULTIPLE COMPLAINTS**

It is not uncommon that one event may give rise to similar complaints from a number of different complainants. Whenever possible these complaints will be considered at the same meeting of the Assessment Sub-Committee, however each complaint will be separately considered.

## **6.0 OTHER COMPLAINTS**

It is likely that complaints will be received which do not relate to the Code of Conduct for members. These may include complaints relating to the provision of services by the Council, matters relating to other authorities, or matters relating to a members private life, which do not therefore fall within the remit of the Standards Committee.

Such a complaint will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer, who, if appropriate, will advise the complainant as to the most appropriate course.

## **7.0 CONFIDENTIALITY**

As a matter of fairness and natural justice, a member should be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be granted in circumstances that the Assessment Committee consider to be exceptional, for example:

- a) The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed
- b) The complainant is an officer who works closely with the member and they are afraid of the consequences to their employment if their identity is disclosed
- c) The complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed

## **8.0 WITHDRAWING COMPLAINTS**

A complainant may ask to withdraw their complaint before the Assessment Sub-Committee has made a decision on it. The Sub-Committee will have to decide whether to grant the request.

The Sub-Committee may consider the following:

- a) Does the public interest in taking some action with regard to the issues raised in the complaint outweigh the complainants' request to withdraw the complaint?
- b) Could action, such as an investigation, be carried out without the complainants' participation?