

## ASSESSMENT CRITERIA INITIAL ASSESSMENT AND REVIEW SUB-COMMITTEES

### 1. INTRODUCTION

- 1.1 The Initial Assessment and Review Sub-Committees will consider each case on its merits and according to the facts.
- 1.2 Without compromising the above principle, the Standards Committee wishes to ensure consistency in the way it deals with complaints. By doing so, it hopes to promote public transparency and ensure fairness for both the complainant and the Member.
- 1.3 To achieve this, it has agreed criteria that each Sub-Committee will use to help it assess complaints. These assessment criteria are subject to regular review by the Standards Committee, in the light of experience and emerging best practice.

### 2. THE ASSESSMENT CRITERIA

#### (a) Overriding criteria

- i. All cases will be considered on their individual merits and circumstances. The Sub-Committee may exercise its discretion not to follow one or more of the remaining assessment criteria if this is appropriate due to the particular merits and circumstances of the case.

#### (b) Referring for investigation

- i. The Sub-Committee may consider referring a complaint for investigation in the following circumstances:-

##### Complaints alleging serious misconduct

Complaints that, if proven in whole or in part, may represent a serious breach of the Code of Conduct. The following alleged misconduct, among others, might represent a serious breach of the Code:-

- The failure to treat others with respect, especially if this is repeated or sustained
- Conduct that might cause the authority significantly to breach any equality laws
- Bullying, especially if this is repeated or sustained
- Intimidation of anyone involved in a Standards investigation
- Disclosure of confidential information, except in circumstances permitted by the Code
- Preventing anyone obtaining information they are entitled to in law
- Conduct that would bring the office of Councillor or the Council into disrepute
- Improper use of position
- Improper use of the Council's resources
- Bribery or corruption

- A failure to declare a prejudicial interest and take the appropriate actions in relation to that interest
- A repeated failure to declare a personal interest
- A failure to register a significant item on the register of interest
- A repeated failure to register items on the register of interest
- A failure to register and disclose a significant gift or item of hospitality, or
- A repeated failure to register and disclose gifts and hospitality

(c) Referral for other action

The Sub-Committee may consider referring a complaint for other action in the circumstances listed below. In general, such action is more likely where the complaint discloses a widespread problem rather than purely a specific one. The more specific a complaint the more difficult it may be for the Sub-Committee to recommend alternative action because it is more likely to involve a judgement on the merits of the case without at that stage having heard from the subject Member.

Less serious complaints

- i. Subject to the proviso above complaints that if proven, may represent a less serious breach of the Code than the type described in paragraph (b) above.

Governance issues at the subject Member's authority

- ii. If it is satisfied that the Council (either District or Parish) to which the subject Member is a member appears to have a poor understanding of the Code and any other relevant procedure.

Relationship issues of the subject Member's authority

- iii. If it is satisfied that the Council (either District or Parish) of which a subject Member is a Member is suffering from widespread breakdown in relationships and trust where a course of action other than investigation may be more appropriate.

(d) Referral to the Standards Board for England

The Sub-Committee will consider referring a complaint to the Standards Board for England in the following circumstances:-

Status are the subject Member

- i. If it is satisfied that the status of the subject Member or the number of Members about whom the complaint is made, would make it difficult for them to deal with the complaint.

Status of the complainant

- ii. If it is satisfied that the status of the complainant would make it difficult for them to deal with the complaint, for example the complainant is the Chief Executive, the Monitoring Officer or the Section 151 Officer.

Conflict of interest – Standards Committee

- iii. If it is satisfied that there is a potential conflict of interest of so many Members of the Standards Committee that it could not properly monitor the investigation.

Conflict of interest – Officers

- iv. If it is satisfied that there is a potential conflict of interest of the Monitoring Officer or other Officers and that suitable alternative arrangements cannot be put in place to address the conflict.

Seriousness or Complexity

- v. If it is satisfied that the case is so serious and/or complex, or involves so many Members, that it cannot be handled locally.

Evidence issue

- vi. If it is satisfied that pursuing a complaint will require evidence to be gathered that the Monitoring Officer will be unable to obtain, but that the Standards Board might be able to obtain.

Bullying

- vii. If the complaint relates to long-term or systemic Member/Officer bullying and it is satisfied that this could be more effectively investigated by someone outside the authority.

Legal issues

- viii. If the complaint raises significant unresolved legal issues on which a national ruling would be helpful.

Public perception

- ix. If it is satisfied that the public might reasonably perceive the authority to have a prejudicial interest in the outcome of a complaint.

Exceptional circumstances

- x. If it is satisfied that there are exceptional circumstances which would prevent the Council or the Standards Committee investigating the complaint competently, fairly and in a reasonable period of time, or that it would be unreasonable for local provision to be made for an investigation.

(e) No further action

The Sub-Committee shall decide to take no further action on a complaint if it does not disclose a potential breach of the Code of Conduct.

The Sub-Committee may decide to take no further in the following circumstances:-

Insufficient information

- i. If the complainant has not submitted enough information to allow it to make a decision. In these circumstances, the complainant will be advised that no further action will be taken on the complaint unless the complainant furnishes additional information. If the lack of information prevents a potential breach of the Code of Conduct being identified the Sub-Committee will be bound in law to take no action upon the complaint.

Repeated complaints and complaints acted on previously

- ii. If the action has already been taken on the matter of complaint by a relevant authority and it is satisfied that little or nothing can be gained through pursuing it further.

Old cases

- iii. If it is satisfied that the alleged conduct occurred so long ago that there would be little benefit in pursuing it now, as a general rule the Sub-Committee will not authorise an investigation for matters that have occurred six months prior to the date of the complaint.

Trivial cases

- iv. If it is satisfied that the complaint is trivial or discloses a minor or technical breach in the absence of anything to suggest persistent breach or prior unwillingness to rectify the omission or the breach is not of sufficient importance to warrant a sanction.

Complaints apparently motivated by malice etc

- v. If it is considered that the complaint is simply malicious and without substance.

Vexatious complaints

- vi. If it is considered that the complaint is covered by the Council's Vexatious Complaints Policy.

Complaints remedied by the Member

- vii. If it is considered that the subject Member has provided a satisfactory remedy to the complainant (for example, by apologising to the complainant).

Complaints where the cost of investigation cannot be justified in the public interest

- viii. If it is satisfied that having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting and investigation does not justify the costs of such an investigation.

Complaints where independent evidence is likely to be difficult or impossible to obtain

- ix. If it is satisfied that action is unlikely to be able to establish independent evidence on the complaint (or at the cost of obtaining such evidence could not be justified in the public interest). This might apply where documentary or witness evidence on the complaint is likely to be extremely limited (for example, where the only witnesses are the complainant and the subject Member).

Anonymous complaints

- x. The Sub-Committee will usually not consider these, unless they are exceptionally serious or there is some other legitimate basis for considering the complaint anonymously.

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