

Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct

The Jurisdiction Tests:

- It is a complaint against one or more named members of the authority or an authority covered by the standards committee
- The named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- The complaint, if proven, would 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 as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

The Sub-Committee or Review Sub-Committee does not refer cases if:

- It is malicious, relatively, minor or tit for tat.
- The same, or a substantially similar complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanction available to the Standards Committee.
- The complaint concerns acts carried out in the Members' private life, when they are not carrying out the work of the authority or have not misused their position as a Member.
- It appears that the complaint is really about dissatisfaction with a council decision.
- There is not enough information currently available to justify a decision to refer the matter for investigation.
- The complaint is about a deceased person.
- The complainant is unreasonably persistent, malicious and/or vexatious, unless the complaint raises serious matters
- The complaint is anonymous unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant.

The Assessment Sub-Committee can when deciding whether to refer a matter take the following decision:

- Take no action
- Investigation
- Referral of complaint to the Board

- Referring the complaint to the Sub-Committee of another authority to consider (where the Member is no longer a Member of our authority but is a Member of another authority)
- Arrange for the subject member to attend a training course
- Arrange for the subject member and the complainant to engage in a process of conciliation
- Arrange for such other steps (not including an investigation) as appear appropriate

In making the above decision the following factors will be taken into account:

- Is the case suitable for local investigation
- Is it sufficiently serious to be investigated
- Would an investigation serve a useful purpose
- Have the circumstances changed so much that there would be little benefit arising from an investigation or other action
- Is it serious enough to warrant a sanction
- Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and are there no other avenues left to deal with it except investigation
- The time that has passed since the alleged conduct occurred.
- Is this a case where alternative action such as training or conciliation would be more appropriate
- Would an apology be appropriate

Criteria for Referral to the Board

- It involves the Leadership of the Council or the Opposition
- Complaints are from the Chief Executive, Chief Financial Officer and Monitoring Officer
- There are instances where a key person or a large number of key people are conflicted out and there is a risk of successful judicial review
- There are instances where there has been national attention, or where the Standards Committee feel that the matter turns on an important point of interpretation of the Code (a test case)
- There is a significant conflict of interest