



LOCAL ASSESSMENT OF COMPLAINTS

PROCEDURE FOR DEALING WITH CODE OF CONDUCT COMPLAINTS

This procedure relates only to complaints made under the Local Assessment of Complaints as detailed in the Standards Committee (England) Regulations 2008.

Submission of Complaint

1. Any allegation or complaint made about a Member will, in the first instance, be acknowledged by the Monitoring Officer and assessed as to the most appropriate method by which it can be disposed. A complaint can only be accepted if it is in written form (letter, fax or email). A complaint form is available on the Authority's website or by request to the office. Alternative arrangements can be made, where appropriate, in line with the Disability Discrimination Act 2000

Acknowledgment

2. The complaint will be acknowledged and at this stage, subject to any request for confidentiality (*see paragraph 13*), the Member complained about will also be notified of the complaint, the complainant's details and the relevant paragraphs of the Code of Conduct that may have been breached. A written summary of the allegation will only be provided to the subject member once the Assessment Sub-Committee has met to consider the complaint.

Initial Assessment

3. The Monitoring Officer will use the following criteria to determine whether the complaint should be dealt with in line with the local assessment of complaints procedures:-
 - o It is a complaint against one or more named members of the Authority;
 - o 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.
4. If the complaint fails one or more of the above tests, it cannot be investigated as a breach of the Code of Conduct and the complainant will be informed accordingly. The Monitoring Officer will then decide which complaints procedure, if any, is used to deal with that complaint.

Referral to Assessment Sub-Committee

5. If the complaint does pass the above three tests (*paragraph 3*), the matter will be referred to the Assessment Sub Committee, which will undertake an initial assessment of the complaint in 20 working days. The Sub-Committee will use the following assessment criteria to determine what action, if any, to take.

Assessment Criteria

6. The Assessment Sub-Committee will use the following criteria to decide what action, if any, to take:-
- *Is there sufficient information provided in the complaint on which referral for further investigation or other action could be taken?* If information is insufficient at this stage, the Sub-Committee may wish to wait for further information, or decide to take no further action until more information is forthcoming.
 - *Does the complaint relate to someone who is no longer a member of the Authority, but a Member of another Authority?* If this is the case, the matter will be referred to the monitoring officer of the relevant Authority.
 - *Has the complaint already been subject to investigation or other action relating to the Code of Conduct, or has it been subject of an investigation by another regulatory body?* If this is the case, no further action will be taken.
 - *Does the complaint relate to something that happened so long ago that there would be little benefit in taking now?* The period of time that has passed since the matter needs to be considered carefully, and in the interests of cost, consideration be given to the benefit to the public in investigating something that occurred a considerable time before. In considering this issue, however, the seriousness of the complaint and the possible damage to the Authority's reputation in not dealing with it now must also be considered.

- *Is the complaint too trivial to warrant further action?* The Sub-Committee will wish to consider this matter carefully and will need to consider whether it is in the public interest to pursue a relatively trivial matter.
- *Is the complaint malicious, vexatious, politically motivated or tit-for-tat?* A judgement will need to be made whether the complaint falls into one of these categories and if so, further action cannot be justified (see also paragraph 10)
- *Can the matter be dealt with by the local Standards Committee or is there special circumstances which mean it should be referred to the Standards Board for England for investigation?* Matters such as a conflict of interest with members of the Standards Committee; the significant role of the member being complained about; will the public view the internal handling of the complaint favourably; is the complaint too complex for local determination need to be considered to ensure that the most appropriate investigation method is chosen.
- *Has the complaint been made anonymously?* If so, the matter will only be investigated if there is sufficient evidence indicating an exceptionally serious or significant matter (see also paragraph 13).

Possible actions

7. The Sub-Committee can then take one of three actions:-
 - Refer the matter to the monitoring officer for investigation. The matter will then be investigated and a report on the findings be presented to the Standards Committee for a decision. Alternatively, the Assessment Sub-Committee can recommend that another action be pursued and request that the Monitoring Officer undertake this process. This could, for example, take the form of training for the member concerned; a process of conciliation; or a review of current procedures.
 - Refer the matter to the Standards Board for investigation. They can either choose to investigate the matter, or refer back to the Assessment Sub-Committee to reconsider. In either case, the complainant and the subject member will be notified.
 - Take no further action. In this case, the complainant will be notified accordingly, as soon as possible, together with the reasons for the decision. They will also be notified of the right to review this decision.

Right of Review

8. If the Complainant claims the right of review, the matter will be referred to the Review Sub-Committee who will have the same three options open to it as set out above. The Review Sub-Committee must carry out its review within a maximum of three months of receiving the request. The same assessment criteria, as set out in paragraph 6 above, will be used to determine what action, if any, to take.

Withdrawal of complaint

9. If the complainant decides to withdraw the complaint before the Assessment Sub-Committee has made a decision on it, the Sub-Committee must first decide whether to grant the withdrawal request. The Sub-Committee must consider, before granting such a request:-
 - Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
 - Can the complaint still be dealt with without the complainant's participation?
 - Is there any indication that undue pressure has been brought to bear on the complainant to make them withdraw the complaint?

Handling of vexatious or malicious complaints

10. The Standards Committee is obliged to consider every new complaint that it receives in relation to the Code of Conduct. However, if a complaint is received from the same person and the Monitoring Officer is of the view that there is no new evidence being presented, the complaint does not have to be considered.
11. Vexatious or persistent complainants may be characterised by:-
 - repeated complaints making the same, or broadly similar complaints against the same member about the same alleged incident;
 - the use of aggressive or repetitive language of an obsessive nature;
 - repeated complaints that disclose no potential breach of the Code;
 - apparent ulterior motive for the complaint;
 - complainant refuses to let the matter rest once the complaints process has been exhausted.

12. If vexatious or malicious complaints are identified, the complaints will not be investigated unless there is new evidence provided. The Authority reserves the right to take steps to reduce vexatious or malicious complaints, which could include a refusal to deal with email communication.

Requests for confidentiality

13. In most circumstances, the subject of a complaint will be notified of both the nature of the complaint and the person making the complaint. Requests for confidentiality will only be granted in exceptional circumstances, and at the discretion of the Assessment Sub-Committee.
14. The Assessment Sub-Committee in considering such request will consider the following issues and only allow such a request if one of the following conditions is met:-
- the complainant believes that they have reasonable grounds to believe they will be at risk of physical harm if they are identified;
 - the complainant is an officer who believes that disclosure of their identity could have severe consequences for their future employment and ability to effectively undertake their job with the Authority;
 - the complainant suffers from a serious health condition and there would be significant medical risks associated with their identity being revealed. *(in this case, the Sub-Committee may wish to seek an independent medical opinion)*
15. The Sub-Committee will also wish to consider the following two issues before agreeing to confidentiality:-
- can the complaint be effectively investigated without knowing the complainant's identity?
 - does the public interest outweigh the individual's right to anonymity?
16. In overruling a request for confidentiality, the complainant must be provided with the option of withdrawing their complaint (subject again to public interest)

Participation in decision making process

17. A member or officer shall not take part in the assessment of a complaint if any of the following personal interests are present:-

- the complaint is likely to affect the well being or financial position of that member or officer or the well being or financial position of a friend, family member or person with whom they have a close association;
 - the member or officer is involved in the case in any way;
 - a family member, friend or close associate of the member or officer is involved in the case; or
 - the member or officer has an interest in any matter relating to the case.
18. Members of a Standards Committee taking part in the initial assessment of a complaint can also take part in the subsequent Standards Committee hearing, but must **not** take part in any review of the initial assessment undertaken by the Review Sub-Committee.

