

APPENDIX 2: LOCAL ASSESSMENT CRITERIA

The following criteria shall be applied by the Standards Assessment Sub-Committee and the Standards Review Sub-Committee when considering allegations that a Member has failed to comply with the Members' Code of Conduct. The criteria are not exhaustive and, in the event of any conflict between the criteria and any guidance issued by the Standards Board, the Standards Board guidance shall prevail.

1. Is the complaint within the jurisdiction of the Committee?
2. Is it a complaint against one or more named Members or co-opted Members of the Authority covered by the Members' Code of Conduct?
3. Was the named Member in office at the time of the alleged conduct and the Code of Conduct was in force at the time?
4. Would the complaint, if proven, be a breach of the Code under which the Member was operating at the time of the alleged misconduct?

NOTE If the complaint fails one or more of the above tests, it cannot be investigated as a breach of the Code.

5. Is there prima facie evidence of a breach of the Code?
6. Is it serious enough to warrant a sanction?
7. Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and is there no other avenue left to deal with it except investigation?
8. In considering the case, the Sub-Committee will take into account the time that has passed since the alleged conduct occurred.
9. Would an investigation serve a useful purpose?
10. Is the case suitable for local investigation?
11. Is this a case where alternative action such as training or mediation would be more appropriate?
12. Would an apology be appropriate?
13. It appears that the complaint is really about dissatisfaction with a council decision.
14. There is not enough information currently available to justify a decision to refer the matter for investigation.

Circumstances when the complaint will normally be referred to the Standards Board for England:

15. Complaints where the status of the Member(s) or the number of Members about whom the complaint is made would make it difficult for the Standards Committee to deal with the complaint.
16. Complaints where the status of the complainant(s) make it difficult for the Standards Committee to deal with the complaint.
17. Where there is potential conflict of interest of so many members of the Standards Committee that it could not properly handle the matter;
18. Where there is a potential conflict of interest of the Monitoring Officer or other officers and a suitable alternative arrangement cannot be put in place to address the conflict;

19. Where the case is so serious or complex, or involving so many Members that it cannot be handled locally;
20. Where investigation and determination of the complaint requires substantial amounts of evidence beyond that available from the Authority's documents, its Members or officers;
21. Where there appears to be substantial dysfunction in the Authority or its Standards Committee;
22. Where the complaint relates to long-term or systematic Member / Officer bullying which could more effectively be investigated by someone outside the Authority;
23. Where the complaint raises significant or unresolved legal issues on which a national ruling would be helpful;
24. Where the public might perceive the Authority to have an interest in the outcome of a case. For example, if the Authority could be liable to judicially reviewed if the complaint was upheld;
25. Where there are exceptional circumstances which prevent the Authority or its Standards Committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation.

Factors to consider when deciding whether the identity of the complainant and/or a written summary of the allegation should be disclosed to the Member the subject of the allegation

26. Are there reasonable grounds for believing that the complainant will be at risk of physical harm if their identity is disclosed?
27. Is the complainant an officer who works closely with the Member and afraid of the consequences to their employment if their identity is disclosed?
28. Is there evidence of any medical risks associated with the complainant's identity being disclosed?
29. Is it feasible for the complaint to be investigated without the complainant's identity being disclosed (e.g. where the allegation is bullying of the complainant)?
30. Are there reasonable grounds for believing that disclosure of the complainant's identity and/or the provision of a written summary of the allegation , may lead to intimidation of witnesses or the destruction of evidence?