

NORTH WILTSHIRE DISTRICT COUNCIL

Members' Code of Conduct

Procedure for Assessing and Reviewing Complaints

1 Pre-assessment Procedure

- 1.1 Code complaints will be considered separately from non-Code complaints.
- 1.2 Subject to the Disability Discrimination Act 2000 all complaints must be submitted in writing.
- 1.3 If the complaint is clearly not about Member conduct the Monitoring Officer does not have to pass it to the Assessment Sub-Committee.
- 1.4 The Monitoring Officer will acknowledge receipt of all complaints.
- 1.5 The Monitoring Officer will notify the Subject Member that a complaint has been made, the name of the Complainant(s) and the relevant paragraph(s) of the Code of Conduct concerned, unless to do so would be against the public interest or would prejudice any future investigation. Any decision to withhold this information will be kept under review as circumstances change.
- 1.6 The Monitoring Officer shall if necessary; obtain such additional factual information or documentation from the complainant, or elsewhere, in order to clarify the nature of the complaint prior to consideration by the Assessment Sub-Committee.

2 Assessment

- 2.1 Before assessment of a complaint begins the Assessment Sub-Committee should be satisfied that the complaint meets the following tests:
 - a) it is a complaint against one or more named Members of the authority or an authority over which the Standards Committee has jurisdiction
 - b) the named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
 - c) the complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct

2.2 The Assessment Sub-Committee will assess the complaint against the local assessment criteria as annexed to this procedure.

3 The Decision

3.1 The initial assessment by the Assessment Sub-Committee should take place within an average of 20 working days.

3.2 The Assessment Sub-Committee may reach one of the three following decisions:

- a) Referral of the complaint to the Monitoring Officer of the authority concerned
- b) referral of the complaint to the Standards Board for England
- c) no action should be taken in respect of the complaint.

3.3 A referral of a complaint to the Monitoring Officer can be for investigation or as an alternative to investigation and after consultation with the Monitoring Officer, for some other action, such as, mediation, training or amending the procedures which have given rise to the complaint.

3.4 The Assessment Sub-Committee must give reasons for a decision to take no action in respect of a complaint and send a copy of the decision to the Complainant and the Subject Member within five working days of the decision being taken.

3.5 The Complainant should be advised of their right for a review of a decision to take no action.

3.6 If the Assessment Sub-Committee refers a complaint to the Monitoring Officer or the Standards Board for England it must send a summary of the complaint to the Subject Member unless the Assessment Sub-Committee decides that it would be against the public interest to do so, or that it would prejudice any future investigation. Any decision to withhold the summary will be kept under review as circumstances change.

3.7 Typically the types of case which may be referred to the Standards Board for England are:

- Complaints concerning the leadership of the Council or in some cases the opposition.
- Complaints from Chief Executives and Monitoring Officers.
- Instances where a large number of key people are conflicted out and there is a risk of successful judicial review.
- Other instances where there has been national attention or where the committee feels that the matter turns on an important point of interpretation of the Code.

4 Review

- 4.1 The Complainant has a right of review in respect of a decision of the Assessment Sub-Committee to take no action.
- 4.2 The request for a review must be made in writing within 30 days of receipt by the Complainant of the Assessment Sub-Committee's decision to take no action. The Complainant should state the reasons for requesting the review.
- 4.3 The Subject Member will be notified that a request for a review has been received.
- 4.4 The Review Sub-Committee must carry out the review within three months of receiving the request.
- 4.5 Members who conducted the initial assessment will not be permitted to carry out the review.
- 4.6 The Review Sub-Committee will apply the same local assessment criteria used for the initial assessment.
- 4.7 The Review Sub-Committee has the same range of decisions available to it as the Assessment Sub-Committee.
- 4.8 The review is a complete re-consideration of the complaint and not a review of the reasons given by the Assessment Committee that no action be taken.
- 4.9 The Review Sub-Committee may conclude that due to additional significant material that has become available since the decision of the Assessment Sub-Committee that the complaint under review is effectively a new complaint and should be dealt with as such by the Assessment Sub-Committee.
- 4.10 Paragraph 3.5 and 3.6 above will apply to a Review Sub-Committee in the same way as they apply to an Assessment Sub-Committee.

5 General

- 5.1 The Procedure is summarised on the attached flowchart.

6 Access to Meetings and Decisions

- 6.1 Meetings of the Assessment Sub-Committee and the Review Sub-Committee are not open to the public.
- 6.2 Once an Assessment or Review Sub-Committee has considered a complaint a written summary will be produced setting out the main points considered, the conclusions reached, the reason(s) for the conclusion and the name of the Subject Member unless it would not be in the public interest to do so or it would prejudice

any subsequent investigation This written summary will be available to the public and to any Town or Parish Council concerned. These arrangements are subject to paragraph 3.6 above provided it has been made available to the Subject Member.

- 6.3 A review of a decision to take no further action on a complaint is not subject to public inspection.

7 Withdrawal of Complaints

- 7.1 A complaint cannot be withdrawn without the consent of the Assessment or Review Sub-Committee.
- 7.2 In deciding whether to grant consent the following considerations shall apply:-
- a) is it in the public interest to permit the complaint to be withdrawn?
 - b) could the complaint be effectively considered without the complainant's co-operation?
 - c) is there any evidence of undue influence behind the request?

8 Confidentiality

- 8.1 Unless the Assessment or Review Sub-Committee decides otherwise the Subject Member should be told the identity of the complainant.
- 8.2 Requests for confidentiality will be determined having regard to the following factors:-
- a) Whether the Complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
 - b) Whether the Complainant is an Officer who works closely with the Subject Member and the Complainant is afraid of the employment consequences if the Complainant's identity is disclosed.
 - c) Whether the Complainant suffers from a serious health condition and there are medical risks associated with the Complainant's identity being disclosed.
 - d) Whether it is possible to investigate the Complaint without making the Complainant's identity known.
- 8.3 If a request for confidentiality is refused, unless the public interest in proceeding with an investigation outweighs the Complainant's interest in confidentiality, the Complainant will be given the option to withdraw the complaint.

9 Anonymous Complaints

- 9.1 Anonymous complaints will only be referred for investigation or some other action if accompanied by compelling evidence of an exceptionally serious or significant breach of the Code of Conduct.