

POLICY GUIDANCE ON THE ASSESSMENT AND REVIEW OF COMPLAINTS ABOUT THE CONDUCT OF MEMBERS

1. Introduction

The purpose of this document is to set out policy guidance on how the Assessment Sub-Committee and Review Sub-Committee (“the Sub-Committees”) will normally handle the assessment and review of complaints about the conduct of Members. However where there are exceptional circumstances the Sub-Committees may decide to depart from this policy guidance. Each assessment or review of a complaint will be considered on its individual merits.

2. The Complaint

Any complaint must be submitted in writing i.e. by letter, fax or e-mail. However the Council will make reasonable adjustments to accept a complaint if, in the circumstances, the complainant is unable due to some disability to put his/her concerns in written form.

Furthermore where a complainant’s first language is not English every support will be offered to enable the complainant to submit the complaint to the Sub-Committees.

On receipt of the complaint the Monitoring Officer or his representative will acknowledge the receipt of the complaint but will not notify the subject Member complained of as it is considered that this may unnecessarily cause distress to the person concerned.

3. Confidentiality/Anonymous Complaints

There may be occasions when the complainant asks for his/her identity to be withheld. This request will only be granted in exceptional circumstances including where the complainant:-

- (a) is at risk of physical harm job or
- (b) fears losing his/her job or there are other employment risks (the Council’s Whistleblowing Policy and Procedure may be used in these circumstances) or
- (c) suffers from a serious health condition and there are medical risks associated with their identity being disclosed or
- (d) demonstrates/evidences other significant issues/reasons.

The Sub-Committees will give serious consideration to any request for confidentiality by weighing up the need for and fairness with the exceptional circumstances being put forward by the complainant.

Anonymous complaints will not be referred for investigation or some other action unless (i) the complaint raises a serious or significant matter and (ii) documentary and/or photographic evidence can enable the Sub-Committees to take the complaint forward.

4. Initial Tests

The Sub-Committees will not take any action on the complaint if:-

- (a) It relates to an individual who is not a Member or Co-opted Member of Slough Borough Council, Britwell Parish Council, Colnbrook with Poyle Parish Council or Wexham Parish Council; and/or
- (b) it relates to an individual who was not in office at the time of the complaint; and/or
- (c) it would not be a breach of the Local Code if proven.

5. **Monitoring Officer Summary**

The Sub-Committees will require the Monitoring Officer or the Officer acting on his behalf to prepare a short summary of the complaint setting out:-

- (a) Whether the complaint is within jurisdiction.
- (b) The paragraphs of the Local Code alleged/IMPLIED to have been breached.
- (c) The key issues of the complaint.
- (d) Any documents/factual information relevant to the complaint.

The Council may receive a number of complaints from different complainants about the same incident(s). The Monitoring Officer will present one summary that draws together all the relevant information and highlighting any discrepancies. The Assessment Sub-Committee will deal with these at the same meeting but the decision on each individual complaint will be reached on its own merits.

6. **Assessment Criteria**

The Sub-Committees will bear in mind the importance of ensuring that complainants are confident that complaints about Member conduct are taken seriously and dealt with appropriately. They will also consider that any decision to investigate a complaint or to take other action (see further below) will cost both public money and the Officers' and Members' time.

As a general rule complaints which are considered to be serious and/or raise unique or unusual issues will be referred for investigation to the Monitoring Officer or the Standards Board for England.

Complaints which are neither serious or trivial will be referred to the Monitoring Officer for investigation or other action. The Assessment Sub-Committee will consult with the Monitoring Officer before reaching a decision to take such other action. The other action could include:-

- (a) Arranging for the subject Member to attend a training course.
- (b) Arranging for that Member and the complainant to engage in a process of conciliation.
- (c) Instituting changes to the procedures of the Council if they have given rise to the complaint.

APPENDIX C

It is not desirable to set out all the circumstances where other action may be appropriate but it may arise where the subject Member appears to have a poor understanding of the Local Code and/or the Council's procedures.

It is likely that the Assessment Sub-Committee will take no further action where it considers one or more of the following circumstances have arisen:-

- (a) The complainant has not submitted sufficient information to enable the Sub-Committee to make a decision to refer for investigation or other action. (However in these circumstances the Sub-Committee can request the Monitoring Officer to obtain from the complainant any further information sought).
- (b) The complaint relates to a person who is no longer a Member of the Authority but is a Member of another Authority. In those circumstances the Sub-Committee may consider referring the complaint to the Monitoring Officer of that other Authority.
- (c) The complaint has already been the subject of an investigation or other action under the Local Code of Conduct.
- (d) The complaint has been or will be the subject of an investigation by other regulatory authorities.
- (e) The complaint relates to something that occurred so long ago that there would be little benefit in taking action now.
- (f) The complaint is too trivial to warrant further action.
- (g) The complaint appears to be simply malicious, politically motivated or a tit for tat complaint.
- (h) The complaint is a matter which is best resolved through the civil courts.
- (i) The complaint is primarily a disagreement on political and/or public policy issues.

7. Withdrawal of Complaints

The complainant may wish to withdraw his/her complaint prior to the Assessment Sub-Committee having made a decision on it.

These requests will normally be granted unless the Sub-Committee consider that the public interest in taking some action on the complaint outweighs the complainant's desire to withdraw it e.g. where the complaint raises a serious issue and requires the participation of the complainant.

8. The Decision

The Assessment Sub-Committee can make one of three findings namely:-

- (a) Refer the complaint to the Monitoring Officer for investigation or some other action.
- (b) Refer the complaint to the Standards Board for England.

- (c) Decide that no action should be taken in respect of the complaint.

Where the decision is to refer the complaint for investigation or other action to the Monitoring Officer or the Standards Board for England the Assessment Sub-Committee must send a summary of the complaint to the relevant parties i.e. the Complainant, the Subject Member and the Clerk to the Parish Council if appropriate. The summary of the complaint will state what the allegation was, the referral made and the reasons for it. In exceptional circumstances the Sub-Committee may not give the Subject Member a summary of the complaint if it decides that doing so would be against the public interest or would prejudice any future investigation e.g where intimidation of witnesses may be involved.

Where the decision of the Sub-Committee is to take no further action the Sub-Committee must explain to the parties concerned the reasons for its decision. The complainant will be advised of his/her right to ask for a review of the decision to take no action.

9. Reviews of “No Further Action” Decisions

Where the complainant exercises his/her right of review over the decision of the Assessment Sub-Committee to take no further action a review will be conducted by the Review Sub-Committee. This will comprise Members of the Standards Committee who did not participate in the Assessment Sub-Committee.

The Review Sub-Committee should apply the same criteria used for the initial assessment. However the Sub-Committee will generally only overturn the Assessment Sub-Committees' decision if they consider that the decision was unreasonable in law. This will only be if the decision was flawed because of the irregular way in which the allegation was processed or because an irrational judgment was made on the reported facts.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In most circumstances the Review Sub-Committee should carefully consider if it is more appropriate to pass this to the Assessment Sub-Committee to be handled as a new complaint.

Decisions of the Review Sub-Committee will be notified to all the relevant parties in the same way as the Assessment Sub-Committee i.e. reasons given for the decision.

10. Conclusion

The Assessment Sub-Committee and the Review Sub-Committee will take into account this policy guidance when assessing and reviewing complaints about the conduct of Members. Both Sub-Committees will also take into account the statutory advice given by the Standards Board for England, particularly the local assessment of complaints publication relevant at the time of the decision.

Both Sub-Committees will be supported by the Monitoring Officer or his nominated representative and the Member Services Manager in respect of administrative matters.