



## PROCEDURE FOR THE INITIAL ASSESSMENT OF COMPLAINTS

### 1. Submission of Complaints

- (a) The authority will maintain a distinct and separate process for the handling of Code complaints and shall attempt through regular advertisement to notify the public where to direct complaints, and provide details of the procedures it will follow.
- (b) Officers administering the existing complaints procedure (none Code complaints) shall be alert to a complaint that a member may have breached the Code and ensure that such complaints are passed to the Monitoring Officer.
- (c) Complaints must be in writing. This will include fax and electronic transmission. This requirement must be read in conjunction with the Disability Discrimination Act 2000 and occasions where the complainant's first language is other than English. Transcriptions of oral complaints will only be accepted in these circumstances.
- (d) The authority will produce a Complaint Form that will be freely available, both on request and from the authority's web site, where it will be readily accessible.
- (e) The form will inform complainants that their identity will normally be disclosed to the subject member. In exceptional circumstances and at the discretion of the Standards Committee this information may be withheld.
- (f) Complainants may only withdraw their complaint with permission of the Assessments Panel.
- (g) Anonymous complaints will be considered in exceptional circumstances and only when the Assessment Panel decides that the allegation is supported by sufficient evidence to suggest an exceptionally serious or significant matter.
- (h) The Monitoring Officer is granted discretion to determine whether a complaint:
  - i. is a Code complaint or not,
  - ii. should be passed to the Assessment Panel or whether a different course of action is more appropriate,

- iii. if in a manner other than described in 1(c) above, is suitable for informal resolution to satisfy the complainant.

## **2. Acknowledging receipt of a complaint**

On receiving a complaint and after determining that it is a Code complaint, the Monitoring Officer shall:

- (a) Send written acknowledgement to the complainant,
- (b) Normally inform the subject member of that complaint, (*having due regard to the Data Protection Act 1998 and Section 63 of the Local Government Act 2000 as modified by Regulation 12 of the regulations*) including:
  - i. the name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it)
  - ii. the relevant paragraphs of the Code of Conduct that are alleged to have been breached.
  - iii. a statement explaining that 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,
  - iv. and the date of the meeting of the Assessment Panel, if known.
- (c) The Monitoring Officer has the discretion, to be used in exceptional circumstances only and after consultation with the Chairman of the Standards Committee, to defer notification of the receipt of a complaint, to the subject member. In such cases, the Monitoring Officer shall notify the subject member of that complaint as soon as the reasons for deferral of notification no longer pertain, for example when sufficient investigation has been completed.

## **3. Pre-assessment reports and enquiries**

Prior to the meeting of the Assessment Panel the Monitoring Officer shall prepare a short summary of the complaint. If necessary the Monitoring Officer may seek clarification from the complainant of their complaint and any documentary evidence submitted. Pre-assessment enquiries must not amount to an investigation. The summary shall set out:

- i. whether the complaint is within jurisdiction
- ii. the paragraphs of the Code of Conduct to which the complaint relates or as identified by the complainant,
- iii. any publicly available information which would facilitate the panels task of determining whether a complaint merits investigation.

#### **4. Initial tests**

The Assessment Panel must satisfy itself that the complaint meets the following tests:

- (a) Is it a complaint against one or more named members of the authority or an authority covered by South Cambridgeshire District Council Standards Committee?
- (b) Was the named member in office at the time of the alleged conduct and was the Code of Conduct in force at that time?
- (c) Would the complaint, if proven 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 initial tests it cannot be investigated and the complainant and subject member must be informed that no further action will be taken in respect of the complaint.

#### **5. Assessment Criteria**

All complaints coming before the Assessment Panel will be assessed using criteria as set out below. These criteria shall develop to reflect local circumstances and priorities. They shall be simple, clear, open and ensure fairness for both complainant and subject member.

- (a) Should the Assessment Panel determine that insufficient evidence has been submitted by the complainant, on which to base a referral for investigation or other action, the complaint shall warrant no further action. In exceptional circumstances only the complainant may be asked for further information. Unless the complainant submits sufficient further information in time for the following meeting of the Panel, the complaint shall warrant no further action. Should such further information reveal a different complaint, the Panel will determine the initial complaint and refer the different complaint to the Monitoring officer for pre-assessment.
- (b) Complaints of a simply political, malicious, trivial, vexatious, or tit-for-tat nature shall only be investigated if the Assessment Panel decides that the allegation is of a sufficiently serious matter.
- (c) If the subject member of a complaint is no longer a member of this authority but is a member of another authority, the assessment committee shall refer the complaint to the standards committee of that authority.
- (d) If the matter of the complaint has already been subject to an investigation or other action relating to the Code of Conduct then the complaint shall warrant no further action.
- (e) If the matter of the complaint has already been subject to an investigation by another regulatory authority then the complaint shall warrant no further action.

- (f) If the complaint refers to matters that took place some considerable time ago then the complaint shall normally warrant no further action. Only when the Panel regards the allegations to be so extremely serious shall further action be warranted.
- (g) Should the subject member have died or become seriously ill, or has resigned from the authority, or any other relevant authority covered by South Cambridgeshire District Council, the Assessment Panel may determine that in the circumstances it is no longer appropriate to continue.

## **Decisions**

### **6. Timescale**

The Assessment panel shall endeavor to carry out initial assessment of all claims within 20 working days and reach one of following decisions:

- (a) referral of the complaint to the Monitoring Officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority,
- (b) referral of the complaint to the Standards Board for England,
- (c) no action should be taken in respect of the complaint.

If the Assessment Panel decides to take no action over a complaint, it shall give notice in writing of that decision to the relevant parties as soon as possible and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed the Panel must explain in the decision notice what the allegation was and why they believe this to be the case. The relevant parties will be the complainant and the subject member. If the subject member is a parish councilor their parish council must, also be notified.

### **7. Referral for local investigation**

Should the Assessment Panel determine that a complaint be referred to the Monitoring Officer for investigation, the Monitoring Officer shall write to the relevant parties informing them of that decision and, if appropriate, advising who will conduct the investigation.

It shall send a summary of the complaint to the relevant parties, stating what the allegation was and that the referral is to the Monitoring Officer for investigation. The decision notice must explain why the referral decision has been made.

The Assessment Panel, on the advice of the Monitoring Officer has discretion to withhold the summary from the subject member if it decides that sending the summary would be against the public interest or would prejudice any investigation. Any decision to withhold the summary shall be kept under review.

### **8. Referral to the Standards Board for England**

Should the Assessment Panel determine that a case be referred to the Standards Board for investigation by an Ethical Standards Officer. The Monitoring Officer shall immediately write to the Standards Board for England notifying them of the Assessment Panels referral, including reference to the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why the complaint

cannot be dealt with locally. The Standards Board will then confirm if they will accept the case or not. The Monitoring Officer shall then write to the relevant parties informing them of that decision.

The Assessment Panel shall send a summary of the complaint to the relevant parties, stating what the allegation was and that the referral is to an Ethical Standards Officer for investigation. The decision notice must explain why the referral decision has been made.

The Assessment Panel, on the advice of the Monitoring Officer has discretion to withhold the summary from the subject member if it decides that doing so would be against the public interest or would prejudice any investigation. Any decision to withhold the summary shall be kept under review.

## **9. Referral back from the Standards Board for England**

The Standards board may decline to investigate a complaint referred to them and will send it back with reasons for their decision. The Assessment Panel must again make a decision. In exceptional cases the Standards Board may decide to take no further action on a complaint referred to them and they may offer guidance to the Assessment Panel, which may assist them in their decision

Referrals back to Assessment Panel (where the original referral was from Assessment panel) shall be passed directly to the Assessment Panel for determination.

The Monitoring Officer shall write to the relevant parties informing them of the date for meeting.

The Assessment Panel shall not be constrained by its previous decision and may determine:

- (a) referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority, for:
  - i. investigation
  - ii. other action
- (b) no action should be taken in respect of the complaint.

## **10. Referral for other action**

The Assessment Panel, after consulting the Monitoring Officer may decide that other action rather than an investigation should be taken and will refer the matter to the Monitoring Officer with instructions to implement their decision.

The suitability of other action shall be dependent upon the nature of the complaint.

The requirement outlined in the instruction from the Assessment Panel need not be limited to the subject member/s or the complainant.

The subject member/s or the complainant shall be required to confirm in writing that they will cooperate in the other action proposed.

If the Assessment Panel decides to make a referral to the Monitoring Officer for other action over a complaint, it shall give notice in writing of that decision to the relevant parties as soon as possible and set out clearly the reasons for that decision.

#### **11. Decision to take no action**

The Assessment Panel can decide that no action is required in respect of the complaint.

If the Assessment Panel decides to take no action over a complaint, it shall give notice in writing of that decision to the relevant parties as soon as possible and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the Panel must explain in the decision notice what the allegation was and why they believe this to be the case. The relevant parties will be the complainant and the subject member. If the subject member is a parish councillor, their parish council must also be notified.

The complainant shall be advised of their right to ask for a review of a decision to take no action and that such a request for a review must be received within 30 working days from receipt of the decision.