

STANDARDS AND ETHICS COMMITTEE

27 APRIL 2016

GUIDANCE FOR COMPLAINTS AGAINST MEMBERS – ASSESSMENT CRITERIA

Recommendation

- 1. The Head of Legal and Democratic Services recommends that the Committee:**
 - a) considers the need for continued guidance on the assessment and filtering of complaints that members have breached their Code of Conduct; and**
 - b) authorises the Head of Legal and Democratic Services to continue using the previously adopted assessment criteria as summarised in the report.**

Background

2. The Committee may recall that under the previous centralised Standard and Ethics regime, 'Standards for England' (previously known as the Standards Board) issued national guidance as to the approach to be taken on the filtering of complaints that members had breached their code of conduct. In consistent practice across the country, only a minority of complaints actually went to formal investigation, and most were 'filtered out' on the basis that it was an inappropriate use of public resource to move to formal investigation.

3. It is of course right that certain complaints should be formally investigated, and there is a formal procedure to deal with investigations and hearings. This is not suitable for all complaints and it makes sense to be clear to all concerned about the criteria used for 'filtering' of complaints before reaching investigation to ensure complaints are treated appropriately one way or another.

4. The previous criteria were updated and endorsed by this Committee on 28 March 2013. They have continued to be used in relation to all formal complaints and appear to the Monitoring Officer to remain valid and balanced. It is right that the Committee reviews the position and it is asked to formally consider and endorse their continued use. Members will also recall that the Council's procedure allows an Independent Person to be consulted at this filtering stage, and this has been a useful development.

5. The national and Committee-approved guidance for its assessment/filtering criteria consisted of 3 initial tests:

- Is the complaint against a person covered by the Council's Code of Conduct?
- Was he/she in Office at the time of the alleged conduct?

- Would the complaint – if proven – amount to a breach of the Code? Is a potential breach disclosed by the complaint?

6. If the answer is NO to any of those questions, the complaint falls and no further action is taken.

7. The adopted criteria set out that if the initial tests are all satisfied, factors to be born in mind when assessing whether to formally investigate a complaint are:

- It is important that complaints about member conduct are taken seriously
- However, a decision to investigate will cost both public money and time of Officers and Members, which is an important consideration where the matter is relatively minor
- There is unlikely to be any public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious or tit for tat, and in which cases no further action is likely
- Is there insufficient information from the Complainant for a decision whether there should be an investigation? If yes, no further action likely unless further information is obtained
- Is the complaint about someone who is no longer a member of this Council but another? If yes, consider referring to that Authority alone
- Has the complaint already been subject to investigation or other action relating to the Code? If yes, no further action likely
- Is the complaint about something so long ago there is little benefit in taking action now? If yes, no further action likely
- Is the complaint too trivial to warrant further action? If yes, no further action likely.

8. These criteria still appear to be valid, and it is recommended that the Committee formally endorses their continued use in filtering complaints.

9. As a reminder, the Committee is referred to a flowchart of the complaints process attached as an appendix.

10. The Council does not receive large numbers of complaints about the conduct of its members. The last summary report was presented in July 2015, detailing the 5 complaints which had been received since the previous report. On average the Council receives 1-2 formal member conduct complaints per year. There have been no formal complaints since the July 2015 report.

11. It is worth bearing in mind that even if a complaint does not proceed to formal investigation, the procedure allows 'other action' to try to resolve the issue short of formal process. Of the 5 complaints reported to the July 2015 meeting, 3 involved some form of mediation by the Monitoring Officer to help resolve the issues without going through a formal investigation process. This aspect of complaint resolution is seen as an important and valuable facet of the Council's processes to promote good conduct.

Contact Points

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Supporting Information

- Appendix - Code of Conduct Complaints Procedure – flowchart

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are the background papers relating to the subject matter of this report:

Agenda papers and Minutes of the Standards and Ethics Committee on 5 June 2008, 28 March 2013 and 1 July 2015