

# **HYNDBURN COUNCIL STANDARDS COMMITTEE**

## **CRITERIA FOR THE ASSESSMENT OF COMPLAINTS**

### **I Stage 1 Criteria**

Before the assessment of a complaint begins the Assessment Sub-Committee must be satisfied that the complaint meets the following requirements:

- (i) it is a complaint against one or more named members or former members of the Council;
- (ii) the named member or members were in office at the time of the alleged conduct and the Council's code of conduct was in force at the time;
- (iii) the complaint, if proven, would be a breach of the Council's code of conduct in force at the relevant time.

If the complaint fails one of these tests it cannot be investigated as a breach of the Council's code of conduct and the complainant must be informed that no further action can be taken in relation to the complaint. If it passes all three tests then it can be assessed according to the criteria set out below.

### **II Stage 2 Criteria**

#### **A. Circumstances where the Assessment Sub-Committee may decide that no action should be taken in respect of the allegation:**

- A1 Where the complaint is about someone who is no longer a member of the Council.
- A2 Where the information provided by the complainant is not sufficient to enable the Sub-Committee to make a decision as to whether the complaint should be referred for investigation or other action. However, the complainant will be advised that it is possible to resubmit the complaint with further information.
- A3 Where a substantially similar allegation has previously been made by the complainant to the Standards Board or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority (except where a Review Sub-Committee has taken the view that a request for review contains new information and should be considered by the Assessment Sub-Committee rather than the Review Sub-Committee). The Sub-Committee will only refer the complaint for investigation or other action if it considers that there is a compelling reason to do so.
- A4 Where the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking

action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, it may be appropriate to refer the complaint for investigation or other action.

A5 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter. The Sub-Committee will have regard to the Standards Committee Policy On The Handling Of Anonymous Complaints About Member Conduct when assessing such complaints.

A6 Where the allegation discloses a potential breach of the Code of Conduct, but the Committee considers that the complaint is not serious enough to warrant further action and:

1. the member and officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or
2. in all the circumstances there is no overriding public benefit in carrying out an investigation.

A7 Where the complaint appears to be malicious, politically motivated or tit-for-tat.

A8 Where the complaint ought more properly to be made to the police or another regulatory authority because of its nature and/or seriousness, no action will generally be taken until the outcome of that investigation.

**B. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for Investigation**

B1 Where the allegation discloses a potential breach of the Code of Conduct that the Committee considers sufficiently serious to justify the cost of an investigation.

**C Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for training, conciliation or other action as appears appropriate to the Standards Committee**

**Note** *If this approach is taken, the purpose of the action is NOT to find out whether the subject member breached the Code, and no conclusion will be reached on whether the subject member failed to comply with the Code.*

**Note** *This approach may only be taken after consultation with the Monitoring Officer.*

C1 Other action is appropriate to deal with systemic problems rather than individual ones. Systemic problems can be indicated if:

- a) there is evidence of poor understanding of the code of conduct and / or the Council's procedures; or

- b) there is evidence that relationships within the Council have broken down to such an extent that it has become difficult to conduct the business of the Council.

C2 Matters which might appropriately be referred for other action include:

- a) the same breach of the code by many members, indicating a poor understanding of the Code and / or the Council's procedures
- b) a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the Council
- c) misunderstanding of protocols or procedures
- d) misleading, unclear or misunderstood advice from officers
- e) lack of experience or training
- f) interpersonal conflict
- g) allegations and retaliatory allegations from the same members
- h) allegations about how formal meetings are conducted
- i) allegations that may be symptomatic of governance problems within the Council, which are more significant than the allegations in themselves.

C3 Complaints should not be referred for other action if:

- a) an investigation is in the public interest
- b) the allegation challenges the member's honesty or integrity
- c) the allegation, if proven, would warrant a sanction other than training.

D. **Circumstances where the Standards Committee may decide to refer an allegation to the Standards Board**

D1 Where the Assessment Sub-Committee believes that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for the Standards Committee to deal with the complaint. For example if the complaint is about the Leader of the Council or a Group Leader, or a member of the Cabinet or Standards Committee.

D2 Where the Assessment Sub-Committee believes that the status of the complainant(s) would make it difficult for the Standards Committee to deal with the complaint. For example if the complainant is a group leader, member of Cabinet or the Standards Committee, or the Chief Executive or a statutory officer.

D3 Where the Assessment Sub-Committee considers that there is a potential conflict of interest of so many members of the Standards Committee that it could not properly deal with the matter itself.

- D4 Where the Assessment Sub-Committee believes that there is a potential conflict of interest of the Monitoring Officer or other officers, and that suitable alternative arrangements cannot be put in place to address the conflict.
- D5 Where the case is so serious or complex that it cannot be handled locally.
- D6 Where the complaint will require substantial amounts of evidence beyond that available from the authority's documents, its members or officers.
- D7 Where the complaint relates to long-term or systematic member/officer bullying which could be more effectively investigated by someone outside the Council.
- D8 Where the allegation raises significant or unresolved legal issues on which a national ruling would be helpful.
- D9 Where the public might perceive the Council to have an interest in the outcome of a case. For example if the authority could be liable to be judicially reviewed if the complaint were upheld.

