

Standards Committee

Policy For Dealing With Complainant Requests For Confidentiality

1. Normally the councillor or parish councillor who is the subject of a complaint (the subject member) **is** entitled to know the identity of the complainant, as a matter of fairness and natural justice.
2. Complainants may however request that their identity is not revealed to the subject member and the Assessment Sub-Committee may grant such requests at its discretion in exceptional circumstances.
3. When considering a request for confidentiality the Assessment Sub-Committee will apply the following criteria:
 - does the complainant have reasonable grounds to believe that they will be at risk of physical harm if their identity is revealed ?
 - is the complainant an officer of a relevant authority who fears for the consequences for their employment if their identity is revealed ?
 - is there a medical risk to the complainant's health if their identity is revealed and is this supported by medical evidence ?
 - do any other exceptional circumstances exist that justify the grant of confidentiality ?
4. When considering a request for confidentiality against these criteria the Assessment Sub-Committee will also:
 - balance the request for confidentiality against the substance of the complaint
 - consider whether it is possible to investigate the complaint without making the complainant's identity known to the subject member, given the requirement for a proper investigation and a fair hearing.
5. If the Assessment Sub-Committee decides to refuse a request for confidentiality it may decide to offer the complainant the opportunity to withdraw their complaint. When deciding whether to allow a complaint to be withdrawn the Assessment Sub-Committee must consider whether the public interest in proceeding with an investigation outweighs the complainant's wish to have their identity withheld from the subject member.

Appendix 5

Standards Committee

PROTOCOL ON PUBLICITY FOR COMPLAINTS OF BREACH OF THE CODES OF CONDUCT MADE TO THE STANDARDS COMMITTEE

Introduction

The purpose of this Protocol is to provide guidance to Members as to their conduct when referring an alleged breach of the Code of Conduct to the Standards Committee, or when they are the subject of such an allegation, or are aware of such an allegation.

Background

There is no statutory mechanism preventing those making a complaint to the Standards Committee (or those the subject of such a complaint) making the nature of the allegation known to the press and public, or making public comment on the allegation. Any such comments would be subject to the general law of defamation, and a Member could seek a court injunction to prevent the publication of defamatory material.

A Member who is the subject of a complaint made to the Standards Committee will not be notified of the complaint until the Assessment Sub-Committee of the Standards Committee has met to consider what action, if any, to take in respect of the complaint.

The Council has therefore adopted this Protocol.

Guidance to Members

When a Member has made or is considering making a complaint to the Standards Committee alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to any other Member, or to the public in any forum, whether at a meeting that is open to the public or through the press or media, and should not discuss the complaint or possible complaint in such a manner as is reasonably likely to cause the complaint to be made known to the public.

It is recognised that a Member who has made or is considering making a complaint to the Standards Committee may wish to discuss the matter within the Member's own political group or seek advice from a third party. In such cases, it is the Member's responsibility to ensure that any person(s) in whom the Member confides agree(s) not to make the information known to the press and/or public or to other Members.

A Member who is aware of a complaint should not make any public comment on it, and the matter should not be the subject of discussion or debate within the Council.

Likewise, once a Member becomes aware that he/she is the subject of a complaint or allegation to the Standards Committee, the Member should not make any public or press comment on it.

This guidance applies until the complaint has been resolved. This will be as follows:

- Where the Assessment Sub-Committee decides that no action should be taken, the complaint will be deemed to be resolved after the expiry of the time limit for the complainant to request a review, or where a review is requested; after the Review Sub-Committee has made a decision that no action should be taken.
- Where the Assessment Sub-Committee or Review Sub-Committee refers the complaint to the Monitoring Officer for action other than investigation, the allegation will be deemed to have been resolved after that action has been completed.
- Where the Assessment Sub-Committee or Review Sub-Committee refers the complaint to the Monitoring Officer or the Standards Board for England for investigation, the complaint will be deemed to have been resolved after the Standards Committee has accepted a finding of no failure to comply with the Code, or after the complaint has been considered at a hearing of the Standards Committee or the Adjudication Panel.

This Protocol does not bind members of the public.

Where a complaint is made to the Standards Committee by a member of the public, this may become known to the public through the press or some other medium.

In these circumstances, this Guidance does not preclude the Member who is the subject of the complaint from making a public comment, although it is recommended that the Member should carefully consider the appropriateness of so doing. Until the complaint is resolved (as described above) no other Member who is aware of the complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within the Council.