

Appendix

LOCAL ASSESSMENT CRITERIA

The Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under the Code of Conduct for Members. This will also apply to the Review Committee in dealing with any review of a decision of the Assessment Sub-Committee requested by a complainant.

Relevance

1. It is likely that complaints will be received which do not relate to the Code of Conduct for Members. These might include complaints relating to the provision of services by the Council or the manner in which matters have been dealt with by the Council which should be dealt with under the Council's Corporate Complaints Procedure. They may be matters relating to other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee. Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer as he considers appropriate.

Local Resolution

2. The Standards Committee is mindful that investigations are costly and time consuming. Complaints can often be dealt with more effectively if an early resolution of the matter can be achieved. The Monitoring Officer may therefore encourage complainants to explore whether the matter can be resolved locally prior to a formal written complaint being made to the Standards Committee.

Initial Tests

3. Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests:
 - (a) Is the complaint about the conduct of a member?
(The complaint must relate to one or more named elected or co-opted members of Wiltshire County Council)
 - (b) Was the named member in office at the time the alleged misconduct took place?
 - (c) Was the Code of Conduct in force at the time the alleged misconduct took place?
 - (d) If the complaint is proven, would there be a breach of the Code under which the member was operating at the time of the alleged

misconduct?

4. If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

Sufficiency of Information

5. The complainant must provide sufficient information to enable the Assessment Sub-Committee to decide whether the complaint should be referred for investigation or other action. If insufficient information is available, the Assessment Sub-Committee will not normally refer the complaint for investigation or other action.

Seriousness of the Complaint

6. The Assessment Sub-Committee will not normally refer a matter for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

Length of Time Elapsed

7. The Assessment Sub-Committee will have regard to the length of time which has elapsed since the events giving rise to the complaint occurred. It will not normally investigate or pursue other action where the events took place more than 6 months prior to the complaint being submitted other than in exceptional circumstances (for example, where the conduct relates to a pattern of behaviour which has recently been repeated).

Public Interest

8. The Assessment Sub-Committee will determine whether the public interest would be served by referring a complaint for investigation or other action. It may consider that the public interest would not be served where a member has died, resigned or is seriously ill.
9. If a member has offered an apology or other remedial action it may decide that no further action should be taken.
10. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless the Sub-Committee determines that it would serve the public interest to do so.

Anonymous Complaints

11. Anonymous complaints will not normally be considered unless there is

additional documentary evidence to support the complaint.

Multiple Complaints

12. A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered at the same meeting of the Assessment Sub-Committee. Each complaint will, however, be considered separately.

Confidentiality

13. As a matter of fairness and natural justice, a member should usually be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be agreed in exceptional circumstances, such as where:
 - (a) the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
 - (b) the complainant is an officer who works closely with the member and they are afraid of the consequences to their employment if their identity is disclosed;
 - (c) the complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

Withdrawing Complaints

14. A complainant may ask to withdraw their complaint before the Assessment Sub-Committee has made a decision on it. In deciding whether to agree the request the Sub-Committee will consider:
 - (a) the complainant's reasons for withdrawal;
 - (b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it.
 - (c) whether action, such as an investigation, may be taken without the complainant's participation.