

## **SOUTH RIBBLE BOROUGH COUNCIL STANDARDS COMMITTEE**

### **INTERIM PROCEDURE FOR THE INITIAL ASSESSMENT OF COMPLAINTS OF BREACH OF THE CODE OF CONDUCT**

#### **Introduction**

1. This procedure applies when a complaint is received that a Borough or Parish Councillor has or may have failed to comply with the Code of Conduct.
2. The person making the complaint is referred to as the complainant and the person against whom the complaint is made is referred to as the subject councillor.
3. The procedure also applies if a complaint is referred back to the Standards Committee by the Standards Board for England.
4. No Councillor or officer should participate in any stage of the assessment process if they have any conflict of interest in the matter.

#### **Assessment Sub-Committee**

5. Upon receipt of a complaint that a Councillor has or may have failed to comply with the Code of Conduct, the Monitoring Officer will convene as soon as possible and in any event within 20 working days a meeting of an Assessment Sub-Committee.
6. The Assessment Sub-Committee should comprise three members of the Standards Committee. The meeting must be chaired by an Independent Member. Where the complaint relates to a Parish Councillor, the Assessment Sub-Committee should include a parish member of the Standards Committee. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Monitoring Officer or his representative taking account of availability.
7. The Assessment Sub-Committee should be advised by the Monitoring Officer, the Head of Corporate Governance, the Legal Services Manager or another legal officer.
8. The purpose of the Assessment Sub-Committee will be to decide whether any action should be taken on the complaint – either as an investigation or some other action. The Assessment Sub-Committee should not make any findings of fact.
9. The Assessment Sub-Committee should receive in advance of the meeting a copy of the complaint, together with a report prepared by the Monitoring Officer or his/her representative which will set out the following details:
  - Whether the complaint is within the jurisdiction of the Standards Committee
  - The paragraphs of the Code of Conduct the complaint might refer to, and/or the paragraphs the complainant has identified
  - A summary of key aspects of the complaint if it is lengthy or complex
  - Any further information that the Monitoring Officer has obtained to assist the Assessment Sub-Committee with its decision.

- Any clarification obtained by the Monitoring Officer from the complainant if the complaint was unclear

Pre-assessment inquiries should be limited, and should not be carried out in such a way as to amount to an investigation.

### **The Assessment Process**

10. The Assessment Sub-Committee should first consider whether the complaint meets the following tests:

- The complaint is against one or more named members of the Borough Council or a Parish council within its district
- The subject Councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- The complaint, if proven, would be a breach of the Code under which the subject Councillor was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests, then the decision of the Assessment Sub-Committee must be that no further action will be taken.

11. If the complaint meets the tests in para. 10 above, then the Assessment Sub-Committee should consider whether to refer it to the Monitoring Officer, to refer it to the Standards Board for England, or whether no action should be taken. In making its decision, the Sub-Committee should take account of the Council's Assessment Criteria, which has been approved by the Standards Committee, and which should from time to time be reviewed by the Committee.

12. The Assessment Sub-Committee should, unless there are exceptional circumstances, reach a decision within 20 working days of receipt of the complaint.

13. If the Assessment Sub-Committee decides to take no action over a complaint, then it should arrange for notice of that decision, including the reasons for it, to be given to the complainant, the subject Councillor, and, if the subject Councillor is a parish councillor, to the clerk to the relevant parish council. This should be done within 5 working days after the date of the meeting.

14. If the Assessment Sub-Committee decides to refer the complaint to the Monitoring Officer or to the Standards Board for England, it should arrange for a summary of the complaint to be sent to the complainant and the subject Councillor stating what the allegation is, and the type of referral that has been made. This should be done within 5 working days after the date of the meeting.

15. The Assessment Sub-Committee may decide not to give the subject Councillor a summary of the complaint if it considers that doing so would be against the public interest or would prejudice any future investigation. In considering this, the Sub-Committee should take advice from the Monitoring Officer, and will consider in particular whether it is likely that the subject Councillor may intimidate the complainant or any witnesses involved or whether early disclosure of the complaint may lead to evidence being compromised or destroyed. The Sub-Committee should balance whether the risk of the case being prejudiced by the

subject member being informed of the details of the complaint at that stage outweighs the fairness of notifying the subject Councillor.

### **The Review Process**

16. If the Assessment Sub-Committee decides not to take any action on a complaint, then the Complainant has a right to request a review of that decision, and should be so advised when notified of the decision.
17. When a request for review is received, the Monitoring Officer should convene as soon as possible and in any event within 20 working days a meeting of a Review Sub-Committee.
18. The Review Sub-Committee should comprise three members of the Standards Committee. The meeting must be chaired by an Independent Member. None of these Members should have been members of the Assessment Sub-Committee that considered the original complaint. Where the complaint relates to a Parish Councillor, the Review Sub-Committee should include a parish member of the Standards Committee. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Head of Corporate Governance or her representative, taking account of availability.
19. In addition to the documents referred to in paragraph 9 above, the Review Sub-Committee should have a copy of the Assessment Sub-Committee's decision notice. However, the Sub-Committee should consider the complaint afresh, using the Council's Assessment Criteria. The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee and should follow the procedure outlined above in paragraphs 10-15.
20. Where on a request for review further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint, the Review Sub-Committee should consider if it is more appropriate to pass this to an Assessment Sub-Committee as a new complaint. In this instance, the Review Sub-Committee should make a formal decision that the review request will not be granted.

### **Withdrawing Complaints**

21. If a complainant asks to withdraw the complaint prior to the Assessment Sub-Committee having made a decision on it, the Assessment Sub-Committee should decide whether or not to grant the request. In making its decision, the Sub-Committee should consider:
  - Whether the public interest in taking some action on the complaint outweighs the Complainant's wish to withdraw it
  - Whether the complaint is such that action can be taken on it without the complainant's participation
  - Whether there is an identifiable underlying reason for the request to withdraw the complaint, and in particular whether there is any evidence that the Complainant may have been pressured by the subject member or other person to withdraw the complaint

## **Confidentiality**

22. If a Complainant has asked for their identity to be withheld, this request should be considered by the Assessment Sub-Committee at the same time as it considers the complaint.
23. As a matter of fairness and natural justice, the subject Councillor should usually be told who has complained about them. However, in exceptional circumstances, the Assessment Sub-Committee may grant confidentiality if it is satisfied that the Complainant has reasonable grounds for believing that they will be at risk of physical harm, or their employment will be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
24. The Assessment Sub-Committee should also take into account whether it would be possible to refer the complaint without making the Complainant's identity known, and in particular whether the Complainant's participation would be required if the complaint were referred.
25. If the Assessment Sub-Committee decides to refuse a request by a Complainant for confidentiality, it may offer the Complainant the option to withdraw, rather than proceed with their identity being disclosed. The Assessment Sub-Committee should balance whether the public interest in taking action on a complaint may outweigh the complainant's wish to have their identity withheld from the subject member

## **Complaints about Members of more than one Authority**

26. Where a complaint is received about a Borough or Parish councillor who is known to be a member of another authority, for example the County Council or police authority, the Monitoring Officer should before the meeting of the Assessment Sub-Committee establish whether a similar allegation has been made to the other authority. In the light of information from and in co-operation with the other authority, the Assessment Sub-Committee should consider which authority should deal with the complaint.