

## **SOUTH RIBBLE BOROUGH COUNCIL**

### **COMPLAINTS AGAINST MEMBERS**

#### **ASSESSMENT CRITERIA**

##### **1. Initial Tests**

Before any assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following tests:

- It is a written complaint against one or more named Members of South Ribble Borough Council or a Town or Parish Council within South Ribble Borough;
- The named member 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.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code and the complainant will be informed that no further action will be taken in respect of the complaint.

##### **2. If the above tests are met the Monitoring Officer (normally in consultation with one of our Independent Persons) will have regard to the following criteria:**

- Official capacity – was the member acting in an official capacity as an Elected Member of the Borough or a Town or Parish Council
- Adequate information – whether there is sufficient information to decide whether the complaint should be referred for investigation or other action?
- Vexatious – whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat
- Similar previous complaint(s) – whether a substantially similar allegation has previously been made by the Complainant
- Lapse of Time - whether 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 in taking action now
- Seriousness - Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
  - (i) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or;
  - (ii) Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation
- Inexperience- whether it is apparent that the Member is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction
- Wider problem – whether the complaint suggests that there is a wider problem throughout the authority which ought to be addressed on a more corporate basis
- Whether training or conciliation would be the appropriate response.

### **3. Hearings Panel**

The Monitoring Officer has the discretion to refer the initial assessment of a complaint to a Hearings Panel for their consideration. This could happen for instance in cases of particular complexity or sensitivity.

### **4. Confidentiality/Anonymity**

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Initial Assessment stage.

As a matter of fairness and natural justice, the Member should usually be told who has complained about them and receive details of the complaint.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Member

### **5. The Monitoring Officer (normally in consultation with one of our Independent Persons) has the option to make the following decisions on any complaint:**

- **that no further action be taken in respect of the matter**
- **that the matter be referred to the Group Leader for Informal Action** – this will normally only be where the complaint relates to South Ribble Borough Councillors and will not generally be appropriate if the complaint is from a member of the public.
- **that the matter is referred for Informal Resolution or other action** – this enables less serious complaints to be resolved speedily and cost effectively. Informal action may include an apology, training and mediation. The matter may subsequently be referred for formal investigation should it become apparent that the issues are more serious than was originally anticipated.
- **that the matter is referred for formal Investigation by an Investigator-** this enables the most serious allegations to be thoroughly investigated.
- **refer to Hearings Panel** – ordinarily a complaint will only be referred to a Hearing Panel after a full investigation has been carried out; however, the Monitoring Officer also has a discretion to refer initial complaints to the Panel for determination
- **That the matter is referred to the Police or other relevant Regulatory Agency** – this would be appropriate where it appears a criminal offence or breach of regulations may have taken place and in particular any failure to declare a Disclosable Pecuniary Interest under s 30 -31 of the Localism Act 2011.