

CLEVELAND FIRE AUTHORITY
AUDIT AND GOVERNANCE COMMITTEE
ASSESSMENT CRITERIA FOR DEALING WITH STANDARDS ALLEGATIONS
UNDER THE LOCALISM ACT, 2011

Assessment Criteria

Before commencing an assessment of a complaint, it needs to be satisfied that:-

1. It is a complaint against one or more named Members of the Authority.
2. The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
3. The complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of the above requirements 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.

Decisions to refer a complaint for investigation

A complaint is likely to be investigated when it meets one or more of the following criteria:-

- It is so serious, if proven, to justify in the public interest a formal investigation of the complaint.
- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, other than by investigation.

Note: In considering the above points, consideration will be given to the time that has passed since the alleged conduct occurred.

Decisions not to refer for investigation

A complaint is unlikely to be referred for investigation where it falls into any of the following categories:-

- The complaint appears to be vexatious, malicious, politically motivated, relatively minor or insufficiently serious,
- The same, or substantially similar, complaint has already been the subject of an investigation and there is nothing more to be gained by further action being taken.

- The complaint concerns acts carried out in the Members private life, when they are not carrying out the work of the authority or have not misused their position as a Member.
- It appears that the complaint concerns, or is really about dissatisfaction with an Authority decision, or policy rather than a breach of the Code.
- There is not enough information currently available to justify a decision to refer the matter for investigation.
- The complaint is about someone who is no longer a Member of the Authority.
- A significant period of time has elapsed since the events the subject of the complaint occurred.
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter.

Other Considerations

- Training for the Member concerned is considered to be a more appropriate way of dealing with the matter.
- The Monitoring Officer in conjunction with the Independent Person believe that a breakdown in relationships has occurred which may be effectively dealt with by conciliation/mediation and the member complained of and the complainant are amenable to engaging in such alternative action.
- An investigation is not the most cost effective way of resolving the matter and the Monitoring Officer is able to deal with it informally.
- Some other action is more appropriate eg a review and/or change to the Authority's policies and procedures.
- The conduct complained of is not so serious that it requires a substantive investigation.

Decisions to refer the complaint to another Authority

The Monitoring Officer is likely to refer complaints to another Authority where:-

- The Complaint is about someone who is no longer a Member of the Authority, but is a Member of another Authority. In such cases the Monitoring Officer may refer the complaint to the Audit and Governance Committee of that other Authority.

Anonymous Complaints

The Monitoring Officer will only consider anonymous complaints if there is independent evidence to substantiate them. There must be documentary, photographic or other evidence which supports the substance of the anonymous complaint. However, even if such evidence has been provided, the Monitoring Officer in consultation with the Independent Person is unlikely to consider a complaint that is minor in nature, or appears to be malicious or politically motivated.

Considering Requests for withholding a complainant's details

The Monitoring Officer and where required a Hearing Sub-Committee will need to determine whether or not the complainant's details should be withheld from the subject member. Rarely is it in the public interest not to disclose the complainant's details. This could be on the basis that disclosure could prejudice an investigation, may lead to intimidation of the complainant or indeed, any witnesses involved, or could lead to evidence being compromised or destroyed. This will necessarily involve undertaking an assessment of the potential risks against the wider connotations of procedural fairness and the principles of natural justice.

Withdrawing Complaints

A complainant may ask to withdraw their complaint before it is considered by the Monitoring Officer or a Hearing Sub-Committee.

In such circumstances, and before coming to a decision on the request, consideration will need to be given to;

- whether the public interest in taking action about the complaint (eg because of its seriousness) outweighs the complainant's wish for the matter to be withdrawn;
- if the complaint can be actioned, eg investigated, without the complainant's participation or assistance;
- the actual reasons given (if any), and what other reasons there appear to be, for the request to withdraw and whether those reasons would support a decision to agree to the withdrawal of the complaint.