

**ASSESSMENT SUB-COMMITTEE**  
**CRITERIA FOR ASSESSMENT OF COMPLAINTS**  
**PUBLIC INTEREST TEST**

The following criteria ensure that only the most serious of cases which are in the public interest and appropriate should be referred for investigation or other action. The criteria sets a high threshold for considering complaints and should be adhered to by the Assessment Sub-committee (as well as the Review Sub-committee).

The following initial tests must be met:

- Does the complaint relate to a member within the NWLDC area in office at the time of the conduct complained of.
- Was the member acting in their capacity as a councillor at the time of the conduct complained of.
- The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct. (The relevant District or Parish / Town Council Code.)

The Monitoring Officer will provide the Committee with relevant information concerning this issue as part of the report to the Assessment Sub-committee.

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

If the complaint meets all of these tests the Monitoring Officer will attempt to resolve the complaint by Informal Resolution. If, for whatever reason, the informal resolution process is not successful, the Monitoring Officer will refer the complaint to the Assessment Sub-committee. The Assessment Sub-committee will be asked to decide whether to take further action on the complaint. In making that decision the Assessment Sub-committee should consider the following criteria and checklist to decide whether it is in the public interest to take further action:

Considering the public interest test means looking at all the relevant information in the round and deciding whether it is reasonable and proportionate to take further action on the complaint.

There is no widely accepted definition of the public interest but has been described as "*something which is of serious concern and benefit to the public*". In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:

- If the complaint is vexatious;

- Repetitive complaints; and
- Complaints about trivial matters.

Factors which would tend to indicate there is a public interest in proceeding with an investigation are:

- The complaint relates to a matter which affects a significant part of the district; and
- Complaints about serious misconduct.

These criteria in are not exhaustive and not all are relevant in each case.

- Is there **enough information** to satisfy the Sub-committee that the complaint should be referred for investigation or other action? If there is insufficient information, the decision of the Assessment Sub-committee should be to take no further action and inform the complainant that if they wish to provide further information, it will be considered afresh. This includes:
  - Contact details for the complainant.
  - Specifics about the conduct complained of - dates and times (where possible) and any potential witnesses.
- Has the complaint **already been the subject of an investigation** or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities? Is there anything to gain by a further investigation?
- Is the complaint about something that **happened so long ago** that there would be little benefit in taking action now?
- Is the complainant **too trivial** to warrant further action?
- Does the complaint appear to be simply **malicious, politically motivated or tit-for-tat**? If so, no further action should be taken.
- Is the conduct 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, short of investigation?
- Has the complaint been submitted by a persistent complainer?
- Does this complaint indicate a wider problem at the Authority or a **breakdown in relationships**? Is alternative action more appropriate?
- Is the complaint serious enough to justify, if proven, the range of **sanctions available to the Determination Sub-Committee**?
- Does the complaint appear to be actually about the **dissatisfaction with a council decision** rather than member conduct?
- Is the complaint **anonymous**? If so, does it include documentary or photographic evidence indicating an exceptionally serious or significant matter?
- Has the complainant requested that their **identity be withheld**? If so, only grant the request if:

- (a) risk of physical harm to the complainant;
  - (b) risk to the employment of the complainant as an officer or service provider;
  - (c) risk from a serious medical condition relating to the complainant.
- Where the complainant asks to **withdraw their complaint** prior to the Sub-committee having made a decision, the Sub-committee will need to consider the request and in doing so will take into consideration:
    - (a) whether the public interest in taking such action outweighs the complainant's wish to withdraw it;
    - (b) whether such action can be taken without the complainant's participation;
    - (c) the reason for the request.