



**PROCEDURE FOR THE INITIAL ASSESSMENT  
OF WRITTEN COMPLAINTS OF BREACH  
OF THE CODE OF CONDUCT RECEIVED  
UNDER SECTION 57A(1) OF THE  
LOCAL GOVERNMENT ACT 2000**

## CHAPTER A - OVERVIEW

### 1.0 GENERAL

1.1 For the purpose of this procedure:

**'misconduct'** means any conduct by a member which is in breach of the Council's/Parish Council's Code of Conduct. A copy of these documents are contained at Constitution 16.1.

**'subject member'** means the member of the Council/Parish Council against whom the complaint has been made.

The **'Council Secretary and Solicitor'** is the Monitoring Officer.

- 1.2 Any complaint of misconduct against a member of the District Council or a Parish Council in the district of West Lancashire should be made in writing to the Standards Committee, c/o Gill Rowe, Council Secretary and Solicitor, 52 Derby Street, Ormskirk, Lancashire L39 2DF using the appropriate complaint form. **(See Document 1)**
- 1.3 A complainant may in the first instance discuss their concerns about a member's conduct with the Council Secretary and Solicitor who may provide guidance to the complainant as to the type of conduct which may amount to a breach of the code and/or the matters which the Assessment Sub-Committee would consider are sufficient to be referred for action. If the complainant still has concerns about the member's conduct, the Council Secretary and Solicitor should ask the complainant whether they want to formally put the matter in writing in order that it can be considered by the Assessment Sub-Committee.
- 1.4 Complaints may be made by any person including members of the public or members or officers of the Council/Parish Council and should specify the misconduct alleged and be submitted as soon as practicable (within 3 months of the misconduct except in exceptional circumstances).
- 1.5 The Council Secretary and Solicitor will consider whether it is clear from the complaint received that the complaint is about a breach of the code of conduct by a member of the Council/Parish Council. Some complaints may relate to the provision of services by the Council or the manner in which matters have been dealt with by the Council. Such complaints will not be passed to the Assessment Sub-Committee but will instead be dealt with by the Council Secretary and Solicitor who will refer the complainant to an appropriate avenue for further consideration.
- 1.6 The Council Secretary and Solicitor will formally acknowledge receipt of the written complaint to the complainant within 5 working days of receipt of the complaint. **(See Document 2)** At this stage the process will remain confidential and the subject member will not be notified.
- 1.7 No member of the Standards Committee or officer supporting the Standards Committee will participate in any stage of the assessment process if they have any personal conflict of interest in the matter. Advice should be sought at the earliest opportunity if any member or officer is concerned about potential conflicts of interest.

1.8 The procedures set out in this document will also apply if a complaint is referred back to the Standards Committee by the Standards Board for England.

## **2.0 INITIAL ASSESSMENT**

2.1 On receipt of the written complaint and provided she is satisfied that the complaint concerns a breach of the code of conduct by a member of the Council/Parish Council, the Council Secretary and Solicitor will prepare a written summary report and will submit the report together with the original complaint to the Assessment Sub-Committee for consideration, within 20 working days of receipt of the complaint - see Chapter B, paragraph 2.2.

2.2 The Assessment Sub-Committee will decide either to:

- Take no further action
- Refer the complaint to the Council Secretary and Solicitor for investigation or other action
- Refer the complaint to the Standards Board for England

The Assessment Sub-Committee may decide to refer the complaint to the monitoring officer of another relevant authority if it considers it appropriate to do so and:

- a) the subject member is no longer a member of the Council, and
- b) is a member or co-opted member of another relevant authority.

2.3 The Assessment Sub-Committee will take into account any relevant criteria and factors that the Standards Committee decides should be considered at meetings of the Assessment Sub-Committee, as amended from time to time, and any relevant advice from officers, as well as statutory guidance issued by the Standards Board for England. (See Assessment Sub-Committee Procedure at Chapter B for further details).

2.4 If the Assessment Sub-Committee decides to take no further action the complainant will be advised of their right to ask for a review of the decision to take no action. The complainant must make this request in writing, within 30 days from the date on the initial assessment decision notice.

2.5 The assessment decision relates only to whether action should be taken on the complaint. It does not determine whether the conduct actually took place or whether it was a breach of the Code.

## **3.0 REVIEW**

3.1 The Review Sub-Committee must carry out its review within a maximum of three months of receiving the request, although the Sub-Committee will aim to complete the review within 20 working days of receipt of the request.

3.2 Members of the Assessment Sub-Committee who made the original decision will not take part in the review of that decision.

3.3 The Review Sub-Committee will apply the same criteria used for initial assessment and has the same decisions available to it as the Assessment Sub-Committee which are:

- Take no further action
- Refer the complaint to the Monitoring Officer for investigation or other action
- Refer the complaint to the Standards Board for England

3.4 The Sub-Committee will consider each review request. There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the Review Sub-Committee will decide if it is more appropriate to pass this to the Assessment Sub-Committee to be handled as a new complaint.

(See Review Sub-Committee Procedure at Chapter C for further details.)

#### **4.0 HEARING**

4.1 A member of the Standards Committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

4.2 The sub-committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

(See Hearing Process for further details.)

4.3 In order to avoid any suggestion of bias or predetermination by the Members as to the finding of a breach (which is a potential risk in the case of a no breach finding by the Monitoring Officer and the Committee then deciding that there should be a hearing) the whole Standards Committee, except for 3 Members, will consider the investigation report. The three Members who are not involved will then be able to hear the matter if it is decided to refer the matter for hearing by the Standards Committee.

#### **5.0 ADDITIONAL INFORMATION**

5.1 Additional information on the process is available from The Standards Board for England at [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

### **CHAPTER B - ASSESSMENT SUB-COMMITTEE PROCEDURE**

#### **1.0 GENERAL**

1.1 The Standards Committee has established an Assessment Sub-Committee which is responsible for assessing complaints that a member may have breached the Code. Complaints must be submitted as referred to at Chapter A paragraph 1.2 above.

1.2 Upon receipt of a complaint a meeting of the Assessment Sub-Committee will be convened as soon as practicable and in any event within 20 working days of receipt of the complaint.

- 1.3 **Membership of the Assessment Sub-Committee** - 3 members (at least 1 Independent member, who will be appointed as the Chairman of the Sub-Committee, 1 elected member, and at least 1 parish representative when considering parish matters.)
- 1.4 **Purpose** – To decide whether any action should be taken on the complaint – either as an investigation or some other action. The Assessment Sub-Committee will make no findings of fact.
- 1.5 The Assessment Sub-Committee will be advised by the Council Secretary and Solicitor or her representative.

## **2.0 SUB-COMMITTEE MEETINGS**

- 2.1 **Meeting Notification** – Only the members of the Assessment Sub-Committee will be notified of the date of the meeting. At this stage the process is confidential and therefore the sub-committee is not subject to the following rules:
- rules regarding notices of meetings
  - rules on the circulation of agendas and documents
  - rules over public access to meetings
  - rules on the validity of proceedings
- and the subject member will not be notified.

## **2.2 Pre-Assessment Report**

The Council Secretary and Solicitor will prepare a written summary report (“the report”) which will be submitted to the Assessment Sub Committee together with the complaint for consideration within 20 working days of receipt of the complaint, unless there are exceptional circumstances which would prevent the report and complaint being submitted within this period.

The report will set out the following details:

- Whether the complaint is within jurisdiction.
  - Whether the member has ceased to be a member of the Council and is a member of another relevant authority.
  - The paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified.
  - A summary of the key aspects of the complaint if it is lengthy or complex.
  - Any further information that has been obtained to assist the Assessment Sub-Committee with its decision – this may include:
    - (a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code.
    - (b) Minutes of meetings.
    - (c) A copy of a member’s entry in the register of interests.
    - (d) Information from Companies House or the Land Registry.
    - (e) Other easily obtainable documents.
- 2.3 Contact may also be made with complainants for clarification of their complaint if the Council Secretary and Solicitor is unable to understand the complaint submitted.

- 2.4 Pre-assessment enquiries will not be carried out in such a way as to amount to an investigation, eg they will not extend to interviewing potential witnesses, the complainant or the subject member.
- 2.5 The report would then go on to evaluate whether the complaint meets the initial test at 3.1 below and, if so, to carry out an analysis based on the application of the Standards Committee Assessment criteria, as to which see below. It will then make a recommendation as to action, either:
- (1) no further action
  - (2) referral to the Council Secretary and Solicitor for investigation or other action
  - (3) referral to the Standards Board including why this is necessary.

If the subject member is no longer a member of the Council, and is a member or co-opted member of another relevant authority, the report may also recommend that the Assessment Sub-Committee refer the complaint to the other relevant authority under section 57A(3) of the Local Government Act 2000.

- 2.6 The report should not influence improperly the Assessment Sub-Committee's decision or make the decision for it. Opinions will not be sought on an allegation. Only factual information will be presented to ensure that any subsequent investigation is not prejudiced.

### **3.0 ASSESSMENT SUB-COMMITTEES' DECISIONS**

#### **3.1 INITIAL TEST**

Before assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests:

- It is a complaint against one or more named members of the Council or a Parish Council within West Lancashire. (If the complaint is about a member of another Council or a Parish Council outside West Lancashire which could be referred to the Monitoring Officer of that other Council then the complainant will be so advised)
- 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 under which the member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests the complainant must be informed that no further action will be taken in respect of the complaint. **(See Document 3 and 4)**

- 3.2 If the complaint meets all parts of the 'Initial Test', the Sub-Committee will decide whether to
- Take no further action
  - Refer the complaint to the Council Secretary and Solicitor for investigation or other action
  - Refer the complaint to the Standards Board for England

In making its decision, the Sub-Committee will take account of the Assessment criteria set out below which have been approved by the Standards Committee and which will be reviewed from time to time by the Standards Committee. The Sub-Committee will also take into account advice provided by officers and any relevant guidance issued by the Standards Board for England.

### **3.3 WEST LANCASHIRE DISTRICT COUNCIL STANDARDS COMMITTEE – ASSESSMENT CRITERIA**

These criteria are intended to reflect local circumstances and priorities and are simple, clear and open. They are to ensure fairness for the complainant and the subject member.

#### **A Circumstances where the Assessment Sub-Committee may decide to take no further action**

##### **1. Where the complaint:**

- (1) does not have enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action;
- (2) is about someone who is no longer a member of the Council or the Parish Council or any other relevant authority, and there is no public interest in, and there is nothing to be gained by, action being taken;
- (3) is about someone who has died or is seriously ill and there is no public interest in, and there is nothing to be gained by, action being taken;
- (4) is substantially similar to a complaint which has already been the subject of an investigation or other action relating to the Code of Conduct or has been the subject of an investigation by other regulatory authorities and there is nothing further to be gained by further action being taken;
- (5) is believed to be either:
  - (a) not sufficiently serious to warrant further action
  - (b) tit-for-tat
  - (c) politically motivated
  - (d) malicious
- (6) is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter

**or**

2. Where the subject member has apologised and admitted making an error and the matter would not warrant a more serious sanction, and there is nothing to be gained by action being taken.

The Assessment Sub-Committee is unlikely to refer complaints that have been made about conduct which happened so long ago that there is little benefit to the public interest in taking action now. Complainants are encouraged to make complaints as soon as reasonably practicable and within 3 months of the conduct occurring. The reasons for complaints being made after this period will be carefully considered and if they are considered not to be sufficient, may result in no action being taken.

#### **B Circumstances where the Standards Committee may decide to refer the complaint to the Monitoring Officer for local investigation**

The Assessment Sub-Committee must be mindful of the public money which may be incurred in investigating complaints. Investigations are costly and time consuming and in some circumstances, complaints may be more effectively dealt with by informal resolution or other action. The Assessment Sub-Committee will therefore refer complaints to the Monitoring Officer for investigation in circumstances in which the complaint is sufficiently serious to justify the cost of an investigation and it is in the public interest to investigate.

**C Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for other positive action**

- (1) Where the complaint:
  - (i) could be dealt with more effectively by:
    - (a) requesting an apology
    - (b) mediation
    - (c) training
    - (d) reviewing procedures and protocols
  - (ii) is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority which could be dealt with by:
    - (a) mediation
    - (b) training
    - (c) reviewing procedures and protocols
- (2) Where it is not in the interests of good governance to undertake or complete an investigation into a complaint.

**Notes**

- (a) The Assessment Sub-Committee must consult the Council Secretary and Solicitor before reaching a decision to take other action. It is to be noted that the purpose of this approach is not to determine whether there has been a breach of the Code. The Council Secretary and Solicitor may need to contact the subject member and complainant in relation to other action proposed by the Assessment Sub-Committee.
- (b) If members decide to refer the complaint to the Monitoring Officer for another form of positive action the following must be considered:
  - *What is being proposed.*
  - *Why it is being proposed.*
  - *Why the Member should co-operate*
  - *What the Sub-Committee hopes to achieve*
- (c) There will be no statement or finding as to whether the member has breached the code of conduct if the Assessment Sub-Committee refers the complaint to the Monitoring Officer for any form of positive action. The decision to refer the complaint to the Monitoring Officer for other action is an alternative to investigation and there will be no opportunity to undertake an investigation. The Monitoring Officer must report back



to the Assessment Sub-Committee the action taken. If the Assessment Sub-Committee is not satisfied as to the action taken, it will give a further direction to the Monitoring Officer. However such further action must not include an investigation.

**D Circumstances where the Standards Committee may decide to refer the complaint to the Standards Board for England (SBE)**

- (1) Where the status of the member or members or the number of members about whom the complaint is made would make it difficult to deal with the complaint eg a complaint against the Leader of the Council or senior opposition group members or a Cabinet Member or a Standards Committee Member.
- (2) Where the status of the complainant or complainants would make it difficult to deal with the complaint eg a complaint from the Chief Executive or Council Secretary and Solicitor or other senior officer or a Group Leader or Cabinet Member or Standards Committee Member.
- (3) Where a large number of key people are conflicted out and there is a risk of successful judicial review.
- (4) Where there is a potential conflict of interest of the monitoring officer or other officers and suitable alternative arrangements cannot be put in place to address the conflict.
- (5) Where the complaint is so serious or complex, or it involves so many members that it cannot be handled locally.
- (6) Where the complaint requires substantial amounts of evidence beyond that available from the authority's documents, its members or officers.
- (7) Where there is substantial governance dysfunction in the Council or its Standards Committee.
- (8) Where the complaint relates to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority.
- (9) Where the complaint raises significant or unresolved legal issues on which a national ruling would be helpful.
- (10) Where the public might perceive the Council to have an interest in the outcome of a case eg, if the Council could be liable to be judicially reviewed if the complaint is upheld.
- (11) Where there are exceptional circumstances which would prevent the authority or its standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation.

**3.4 CONFIDENTIALITY OF COMPLAINANT**

If the complainant has requested that their identity should be withheld, the Sub-Committee will need to decide whether:

- (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 subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed.
- (c) The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such circumstances, the sub-committee may wish to request medical evidence of the complainant's condition.

The Sub-Committee will also consider whether an investigation can be carried out effectively if the identity of the complainant is withheld. If the Sub-Committee agrees to withhold the identity of the complainant, and it has decided to refer the complaint for investigation, it will state that it cannot guarantee that the complainant's identity will be withheld throughout the investigation in the interests of fairness of the investigative process.

If the Sub-Committee refuse the request to withhold the complainant's identity, the complainant should be given the option to withdraw their complaint, although the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member.

## **4.0 NOTIFICATION OF DECISIONS**

### **4.1 Decision Notice – No Further Action**

If the Assessment Sub-Committee decides to take no action over a complaint, it will give notice in writing of that decision, including the reasons for that decision, within 5 working days of the decision being made. **(See Documents 4 and 5)** Where no potential breach of the Code is disclosed, the Assessment Sub-Committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the complainant **(See Documents 4A and 5A)** and the subject member. **(See Documents 4B and 5B)** A copy of the decision notice should also be given to the Parish Clerk if the subject member is a Parish Councillor. **(See Documents 4C and 5C)**

The complainant will be advised of their right to ask for a review of the decision to take no action. They will be told that they can exercise this right by writing to the Standards Committee with their reasons for requesting a review. The complainant must make this request in writing, within 30 days beginning with the date of the notice given to the complainant as to the decision made.

### **4.2 Referral to the Monitoring Officer or the Standards Board for England**

- (a) If the Sub-Committee decides the complaint should be referred to the monitoring officer or the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what

type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must explain why a particular referral decision has been made, see paragraphs 4.3 and 4.4 below.

- (b) **However**, the Assessment Sub-Committee does not have to give the subject member a summary of the complaint if it decides by doing so it would be against the public interest or would prejudice any future investigation eg where it is considered likely that the subject member may intimidate the complainant or the witnesses involved or where early disclosure of the complaint may lead to evidence being compromised or destroyed. The Assessment Sub-Committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.
- (c) The Assessment Sub-Committee should take advice from the Council Secretary and Solicitor in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the Council Secretary and Solicitor in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.
- (d) The Council Secretary and Solicitor will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member eg allowing the subject member to preserve any evidence. The Council Secretary and Solicitor should then advise the Assessment Sub-Committee accordingly. The Assessment Sub-Committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change and must be provided before the completion of an investigation by either the Ethical Standards Officer or Monitoring Officer.

#### **4.3 Decision Notice – Referral for Investigation or other Action**

Subject to 4.2(b) to (d) above, if the Assessment Sub-Committee decides to refer the complaint for investigation or other action, it will give notice in writing of that decision within 5 working days of the decision being made. **(See Document 6)** This Notice must be given to the complainant **(See Document 6A)** and the subject member **(See Document 6B)**. A copy of the decision notice should also be given to the Parish Clerk if the subject member is a Parish Councillor. **(See Document 6C)**

Within the period of three months beginning on the day on which the direction to take other action was received, or as soon as reasonably practicable thereafter, the Council Secretary and Solicitor must submit a written report to the Standards Committee giving details of the action taken or proposed to comply with the direction.

If the Standards Committee is not satisfied with the action specified in the report received it shall give a further direction.

If the Standards Committee is satisfied with the action specified in the report received it/the officer shall give written notice to the subject member, the complainant, the Standards Committee and the Parish Clerk if the subject member is a Parish Councillor.

#### **4.4 Decision Notice - Referral to the Standards Board for England**

Subject to 4.2(b) to (d) above, if the Assessment Sub-Committee decides to refer the complaint to the Standards Board for England, it will give notice in writing of that decision within 5 working days of the decision being made (**see Document 7**). This Notice must be given to the complainant (**see Document 7A**) and the subject member (**see Document 7B**). A copy of the decision notice should also be given to the Parish Clerk if the subject member is a Parish Councillor. (**See Document 7C**)

If the Assessment Sub-Committee decides to refer the complaint to the SBE, the Council Secretary and Solicitor must write on behalf of the Standards Committee to the SBE stating the paragraph(s) of the Code of Conduct the allegation refers to and the reason why it cannot be dealt with locally. (**See Document 8**)

The SBE will inform the Council Secretary and Solicitor within 10 working days whether they will accept the case or whether it will be referred back to the Standards Committee, with the reasons for doing so. There is no appeal against this decision. If the complaint is referred back to the Standards Committee the Assessment Sub-Committee must again take an assessment decision and should complete this within an average of 20 working days from the date of referral back. However the Assessment Sub-Committee cannot decide to refer the complaint back to the Standards Board for England.

### **5.0 ADDITIONAL MATTERS**

#### **5.1 Withdrawing Complaints**

There may be occasions when the complainant asks to withdraw their complaint prior to the Assessment Sub-Committee having made a decision on it. In these circumstances, the sub-committee will need to decide whether to grant the request. It will consider:

- (a) Whether the public interest in taking some action on the complaint outweighs the complainant's desire to withdraw it?
- (b) Whether the complaint is such that action can be taken on it, for example an investigation, without the complainant's participation?
- (c) Whether there is an identifiable underlying reason for the request to withdraw the complaint? Eg, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

#### **5.2 Multiple Complaints**

A number of complaints about the same matter may be considered by the Assessment Sub-Committee at the same meeting. The Council Secretary and Solicitor will present one 'Pre-Assessment Report' that draws together all the relevant information and highlights any substantively different or contradictory information. However, the Sub-

Committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

## **CHAPTER C - REVIEW SUB-COMMITTEE PROCEDURE**

### **1.0 GENERAL INFORMATION**

1.1 A complainant may make a request for a review of the Assessment Sub-Committee's decision where it decides to take no further action on a complaint. The Standards Committee has established a Review Sub-Committee which is responsible for carrying out these reviews. The Sub-Committee must undertake the review within 3 months of receiving the request, however the Sub-Committee will aim to complete the review within 20 working days of receipt of the request.

1.2 Membership - 3 members (at least 1 Independent member who will be appointed as the Chairman of the Sub-Committee, 1 elected member and at least 1 parish representative when considering parish matters.)

Members who have taken part in the initial assessment of a complaint must not take part in the review of that decision.

1.3 Purpose – To decide whether any action should be taken on the complaint – either as an investigation or some other action. The Review Sub-Committee will make no findings of fact.

1.4 The Review Sub-Committee will be advised by the Council Secretary and Solicitor or her representative.

### **2.0 SUB-COMMITTEE MEETINGS**

2.1 The Council Secretary and Solicitor will formally acknowledge receipt of the request within 5 working days of receipt of the request. **(See Document 9)**

2.1 Meeting Notification – The subject member will be notified when a review request has been received **(See Document 10)**. At this stage the process is confidential and therefore the sub-committee is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

2.2 Further Information

Further information may be submitted to the Sub-Committee from the complainant in support of a complaint.

2.3 Review Report

The Council Secretary and Solicitor will prepare a report on the details of the review request together with the written summary report, previously submitted to the Assessment Sub Committee, and a copy of the Assessment Sub-Committee's decision

notice. This will be considered by the Review Sub-Committee, within 20 working days of receipt of the request, unless there are exceptional circumstances that would prevent the reports being submitted within this period.

### **3.0 REVIEW SUB-COMMITTEES' DECISIONS**

3.1 The Review Sub-Committee can reach one of the following decisions:

- uphold the original decision of the Assessment Sub-Committee not to refer the complaint for investigation or other action.
- overturn the decision of the Assessment Sub-Committee and refer the complaint to the Council Secretary and Solicitor for investigation or other action.
- overturn the decision of the Assessment Sub-Committee and refer the complaint to the Standards Board for England for investigation.

3.2 In making its decision the review Sub-Committee will consider the matter afresh and apply the same criteria used for initial assessment set out at paragraph 3.0 of Chapter B – Assessment Sub-Committee Procedure.

### **4.0 NOTIFICATION OF DECISIONS**

#### **4.1 Decision Upheld**

If the Review Sub-Committee decides to uphold the decision of the Assessment Sub-Committee not to take any action on the complaint, it must give notice in writing of the decision, including the reasons for that decision, within 5 working days of the decision being made (**See Document 11**). This notice must be given to the complainant with a copy to the subject member and the Parish Clerk if the subject member is a Parish Councillor.

#### **4.2 Overturn Decision of Assessment Sub-Committee and Refer to the Monitoring Officer or the Standards Board for England**

If the Review Sub-Committee decides the complaint should be referred to the monitoring officer or the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must explain why a particular referral decision has been made, see paragraphs 4.3 and 4.4 below.

#### **4.3 Overturn Decision of Assessment Sub-Committee and Refer to the Monitoring Officer for Investigation or other Action**

Subject to 4.2(b) to (d) of Chapter B above, if the Review Sub-Committee decides to refer the complaint to the Council Secretary and Solicitor for investigation or other action, it will give notice in writing of that decision within 5 working days of the decision being made (**See Document 6**). This notice must be given to the complainant (**See Document 12**) with a copy to the subject member. A copy of the decision notice should also be given to the Parish Clerk if the subject member is a Parish Councillor.

Within the period of three months beginning on the day on which the direction to take other action was received, or as soon as reasonably practicable thereafter, the Council Secretary and Solicitor must submit a written report to the Standards Committee giving details of the action taken or proposed to comply with the direction.

If the Standards Committee is not satisfied with the action specified in the report received it shall give further direction.

If the Standards Committee is satisfied with the action specified in the report received it/the officer shall give written notice to the subject member, the complainant, the Standards Committee and the Parish Clerk if the subject member is a Parish Councillor.

#### **4.4 Decision Notice – Overturn decision of Assessment Sub-Committee and Refer to the Standards Board for England**

Subject to 4.2(b) to (d) of Chapter B above, if the Review Sub-Committee decides to refer the complaint to the Standards Board for England, it will give notice in writing of that decision within 5 working days of the decision being made. This notice must be given to the complainant (**See Document 12**), with a copy to the subject member. A copy of the decision notice should also be given to the Parish Clerk if the subject member is a Parish Councillor.

If the Review Sub-Committee decides to refer the complaint to the SBE, the Council Secretary and Solicitor must write on behalf of the Standards Committee to the SBE stating the paragraph(s) of the Code of Conduct the allegation refers to and the reason why it cannot be dealt with locally (**See Document 8**).

The SBE will inform the Monitoring Officer within 10 working days whether they will accept the case or whether it will be referred back to the Standards Committee, with the reasons for doing so. There is no appeal against this decision. If the complaint is referred back to the Standards Committee the Assessment Sub-Committee must again take an assessment decision and should complete this within an average of 20 working days from the date of referral back. However the Assessment Sub-Committee cannot decide to refer the complaint back to the Standards Board for England.

4.5 Where on a request for a 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 will consider if it is more appropriate to pass this to an Assessment Sub-Committee as a new complaint. If the Review Sub-Committee decides to do so then it will make a formal decision that the review request will not be granted.

4.6 A Review may be more appropriate if a Member wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint.
- there has been a failure to follow any published criteria.
- there has been an error in procedures.

4.7 However, if more information or new information of any significance is available and this information is not merely a repeat complaint then a new complaint rather than a request for a review may be more suitable.