

A man with short, grey hair and blue eyes, wearing a dark blue button-down shirt, is looking slightly to his left with a thoughtful expression. He is in an office environment. In the background, there is a framed picture on the wall and another person sitting at a desk, out of focus. A semi-transparent green banner with a fine grid pattern is overlaid across the middle of the image.

Assessment made clear

Local assessment of complaints

Local assessment of complaints

There are four stages of the assessment process:

- pre-assessment
- assessment
- decision
- review

Pre-assessment

The monitoring officer (MO) can choose whether or not to notify the subject member that a complaint has been made about them.

The MO can prepare a short summary, which could include:

- whether the complaint is within jurisdiction and the paragraphs of the Code the complaint relates to
- further information such as minutes of meetings or a copy of the members' register of interests could also be provided

Assessment – initial tests

The complaint must meet the following tests:

- it must concern a member of an authority covered by your standards committee
- the member must have been in office at the time and the Code must have been in force at the time
- there must be a potential breach of the Code

If a complaint fails just one of these tests, it cannot be assessed

Decisions available to the assessment sub-committee

The sub-committee must reach one of the following decisions on a complaint:

- refer to monitoring officer for local investigation
- refer to Standards for England
- take no action
- refer to monitoring officer for other action

Don't forget – decisions should be made in 20 working days.

The role and make-up of assessment sub-committees

- assess complaints about members
- must have an independent chair and two other members, one of whom must be a member of the authority
- if any complaints involve parish or town councillors, a parish representative must sit on the sub-committee
- proceedings are not open to the public and are confidential
- complainants must be informed of decisions and their right to a review

Referral to Standards for England

When an assessment sub-committee refers a case to Standards for England, we will do one of three things:

- refer it to an ethical standards officer for investigation
- take no action
- refer it back to the standards committee

Referral to Standards for England

We have identified some factors that might make a complaint suitable for investigation:

- the status or number of members involved
- the status of the complainant
- a potential conflict of interest
- the seriousness or complexity of the case
- the amount of evidence required
- substantial governance dysfunction in the authority

Decision to take no action

No action is appropriate when:

- the complaint is insufficiently serious
- a significant length of time has elapsed
- there is no potential breach of the Code

The complainant should be advised of their right to ask for a review.

Reviews of no action decisions

- the review must be independent of the original decision. A separate review sub-committee must consider the review
- the review sub-committee must carry out its review within three months, but we recommend carrying it out within 20 working days
- the review sub-committee can make the same decisions as the assessment sub-committee
- new evidence could constitute a new complaint

Fails to become a complaint

- a potential breach of the Code does not always have to lead to formal complaint in writing
- monitoring officers have the discretion to sort out disagreements in order to avoid the need for a formal complaint
- this can only happen with the full agreement of the parties concerned
- monitoring officers should not filter out valid complaints that have already been formally made
- monitoring officers can seek the involvement of group leaders/whips to help with any difficulties between members

Other action

- complaints should not be referred for other action when an investigation is in the public interest
- suitability of other action is dependent on the nature of the complaint
- in response to an individual complaint or a series of complaints
- particularly suited to poor understanding of the Code and authority procedures or a breakdown in relationships
- see Other Action guidance for more information

Examples of other action

- arranging for members to attend a training course
- arranging for the member or members and the complainant to engage in a process of conciliation
- instituting changes to the policies or procedures of the authority
- mentoring of a member or members, or a whole council

Professional services may be involved in delivering these solutions.

Deciding on other action

- other action should not be seen as a low-cost, quick alternative to an investigation
- if you are looking for definitive proof of innocence or guilt about a complaint you should not opt for other action
- everyone needs to understand the purpose of other action
- the decision to take other action closes the opportunity to investigate at a later date
- the assessment sub-committee must consult its monitoring officer (MO) before reaching a decision to direct the MO to take other action

Role of the monitoring officer (MO)

When a matter has been referred for other action, the MO must:

- inform all relevant parties
- report back to the assessment sub-committee within three months
- if the sub-committee are satisfied with the report they must notify all parties
- if not, the sub-committee can give extra directions to the monitoring officer to enhance the action already taken or suggest alternatives but not investigation