

## Rother District Council

### Elected Member Code of Conduct Complaints

#### Public Interest Test and Assessment Criteria



### ASSESSMENT CRITERIA

#### Part 1: Initial Test

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

- It is a complaint against one or more named elected Members of the District Council or a Town or Parish Council within the District Council area<sup>1</sup>;
- The named elected 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 elected Member was operating at the time of the alleged misconduct.

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.

#### Part 2: Assessment Criteria

If the above tests are met the Monitoring Officer will have regard to the following criteria:

1. Adequate information – The Monitoring Officer will want to be satisfied that there is sufficient information to decide whether the complaint should be referred for investigation or other action;
2. Official Capacity – Was the elected Member acting in their official capacity at the time of the alleged misconduct?
3. Timescale – The Monitoring Officer will take into account when the events subject to the complaint took place and will not normally investigate or pursue other action if the events occurred more than 6 months prior to the complaint being submitted (except if the Monitoring Officer decides there are exceptional circumstances);
4. Seriousness of the complaint – The Monitoring Officer will not normally refer a matter for investigation or other action if it is considered trivial, malicious, politically motivated or tit-for-tat;
5. Public Interest - The Monitoring Officer is satisfied that it was in the public interest for it to consider the complaint and the options available for resolution.

Note: If the complaint relates to an ex-Member of the Council or one of its Town/Parish Councils who is now a Member of another Authority the Monitoring Officer may refer the matter to that Authority for consideration.

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<sup>1</sup> Volunteers working on projects under the auspices of a town or parish council are not subject to the Code of Conduct and are not covered by these provisions.

If the elected Member has resigned, is seriously ill or has died the Monitoring Officer will only refer the matter for investigation or other action if it considers that the public interest will be served by so doing. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or has been investigated by other regulatory authorities it is unlikely to be referred for investigation or other action unless it is evident that public interest will be served by further action being taken. Consideration will, however, be given to any missed learning that may have arisen from the original complaint and subsequent investigation findings that has resulted in the subsequent second complaint.

**The Monitoring Officer has the option to make the following decisions on any complaint;**

- a) The complaint does not come within the remit of the Code of Conduct.
- b) The complaint is not sufficiently serious to warrant an investigation.
- c) That it is not in the public interest to investigate the complaint.
- d) He/she should seek to resolve the complaint without the need for an investigation by informal resolution (e.g. by an apology, mediation, or training by the subject member).
- e) The complaint should be referred to the Group Leader for informal action (NB for complaints against District Councillors only and not generally an appropriate action if the complaint is from a member of the public).
- f) The Complaint should not be investigated because it is obsessive, vexatious, malicious or frivolous.
- g) The Complaint should not be investigated because it is broadly similar to a complaint against the same Member about the same alleged incident, unless there are any significant differences.
- h) The Complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint.
- i) An investigation should take place.
- j) Refer the matter to the Police or other Regulatory Agency.