

Appendix 2

Basic and Local Assessment Criteria

The Basic Criteria are;

- (1) The complaint is about a member of East Devon District Council or of a town or parish council within the administrative area of East Devon and who was a Member at the time of the incident giving rise to the complaint;
- (2) That the Member remains a member of the relevant council at the time of assessment;
[NOTE: The Monitoring Officer retains the discretion to refer a complaint for assessment where, in his opinion, it is considered that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint despite the Member no longer being in office.]
- (3) That a Code of Conduct for the relevant council is in force;
- (4) The complaint relates to Member conduct (rather than, for example, the lawful actions of a parish council or the District Council's service provision) such that, if proven, it would be capable of amounting to a breach of the Code of Conduct;
- (5) It can reasonably be said that the Member was acting so that the Code of Conduct was engaged;
- (6) A complaint must be made within 3 months from the date upon which the Complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.
[NOTE: The Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time where, in his opinion, it is justified in the public interest to continue to consider the complaint.]
- (7) The complaint has not already been considered by the Assessment Sub-Committee.

All seven of the criteria must be satisfied to be valid.

The Local Assessment Criteria are;

- (1) *Sufficient evidence of a potential breach*
 - Is there sufficient evidence of a potential breach of the Code of Conduct?
- (2) *Outcomes*
 - Is the matter something which it is possible to investigate?
 - Would an investigation serve a useful purpose or is the complaint related to a 'technical' breach of the Code? Has a remedy already been agreed/put in place or does understanding of the breach appear to have been demonstrated or would 'other action' be more appropriate?
 - Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
 - Has the complaint been the subject of, or is it subject to, an investigation by other regulatory authorities which may mean it is not necessary to progress or that the complaint should await the outcome of the other investigation? An

example may be a Police investigation into a potential breach of the Disclosable Pecuniary Interest rules.

(3) *Seriousness of the Complaint*

- Does the complaint, on the available information, appear to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.
- Has the Subject Member offered an apology, a reasonable explanation of the issues, or can the complaint can reasonably be addressed by other means?
- Is the complaint part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business and there are no other avenues left to deal with it?

(4) *Public interest*

- Does the complaint have the potential to damage confidence in local democracy?
- Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not appropriate
- Whether the Subject Member is no longer a Member of a relevant council.

(5) *Length of Time Elapsed*

- Is the complaint about something that happened so long ago that there would be little benefit or it would not be in the interests of justice to in taking action now?
- Would an investigation be proportionate and in the public interest?

(6) *Anonymity*

- Where an anonymous complaint has been submitted, is there sufficient documentary evidence or photographic evidence, which indicates an exceptionally serious or significant matter, which merits progressing?