

A meeting of the **REFERRALS (ASSESSMENT) SUB COMMITTEE** will be held in **ROOM D6, THIRD FLOOR, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON, CAMBS PE29 3TN** on **TUESDAY, 17 MARCH 2009 at 10:00 AM** and you are requested to attend for the transaction of the following business:-

A G E N D A

APOLOGIES

1. MINUTES

To approve as a correct record the Minutes of the meeting held on 13th February 2009 – To Follow.

2. MEMBERS' INTERESTS

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 below.

3. TERMS OF REFERENCE (Pages 1 - 2)

To note the Terms of Reference of the Sub-Committee.

4. GUIDANCE TO ASSIST ASSESSMENT OF CASE (Pages 3 - 6)

- ◆ Local Assessment Case Handling Chart; and
- ◆ Guidance received from the Standards Board for England on the conduct of an assessment.

5. EXCLUSION OF PRESS AND PUBLIC

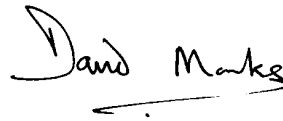
To resolve:-

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7 (c) relating to the deliberations of a Sub-Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000.

6. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 12 (Pages 7 - 28)

Enclosed pre-assessment report by the Monitoring Officer to which is attached various other correspondence/information to assist Members in assessing the case.

Dated this 12th day of October
2011



Chief Executive

Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
 - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: Christine.Deller@huntsdc.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Sub-Committee.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website –
www.huntingdonshire.gov.uk (under *Councils and Democracy*).

If you would like a translation of
Agenda/Minutes/Reports or would like a
large text version or an audio version
please contact the Democratic Services Manager and
we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

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Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the REFERRALS (ASSESSMENT) SUB COMMITTEE held in ROOM D6, THIRD FLOOR, PATHFINDER HOUSE, ST. MARY'S STREET, HUNTINGDON, CAMBS, PE29 3TN on Friday, 13 February 2009.

PRESENT: Mr P Boothman - Chairman.
Councillor Mrs B E Boddington and
Mr G Watkins.

IN ATTENDANCE: Mr D L Hall – observed the proceedings.

46. MINUTES

The Minutes of the meeting of the Sub-Committee held on 22nd January 2009 were approved as a correct record and signed by the Chairman.

47. MEMBERS' INTERESTS

No interests were declared.

48. TERMS OF REFERENCE

The Terms of Reference of the Sub-Committee were noted.

49. GUIDANCE TO ASSIST ASSESSMENT OF CASE

The Guidance produced by the Standards Board for England and collated by the Monitoring Officer to assist the Sub-Committee in their assessment of the cases submitted was received and noted.

50. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7 (c) relating to the deliberations of a Sub-Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000.

51. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 10

Members considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist the Sub-Committee in its deliberations -

- (a) Pre-Assessment Report by the Monitoring Officer;
- (b) Complaint form;
- (c) E-mail exchange between Councillor P H Dakers and Councillor S Kindersley dated 16th and 17th January 2009;

- and
- (d) Declaration of Financial and Other Interests - Councillor P H Dakers.

52. INITIAL ASSESSMENT - CASE NO. 10

Having considered the allegations made in the case against a Councillor serving on Huntingdonshire District Council, seeking the advice of the Monitoring Officer as necessary, the Sub-Committee

RESOLVED

- (a) that the allegations made by Councillor S Kindersley be not referred for investigation and no further action taken in the case for the reasons set out in the "Decision Notice: No Further Action" appended to these minutes;
- (b) that Councillor Dakers be invited to consider attending training offered by the District Council in connection with equality and diversity issues; and
- (c) that in the absence of a Member Training Champion, a copy of the Decision Notice be sent on this occasion to Councillor I C Bates, Leader of the Conservative Majority Group.

53. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 11

The Sub-Committee considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist Members in their assessment of the case -

- (a) Pre-Assessment report by the Monitoring Officer;
- (b) Letter of Complaint from Councillor D A Giles;
- (c) Newspaper Article dated 15th January 2009;
- (d) Copy of confidential briefing noted dated 17th December 2008;
- (e) Extract from Compromise Agreement;
- (f) E-mail from Councillor G S E Thorpe to St. Neots Town Council dated 8th January 2009;
- (g) Copy of second schedule referred to in an e-mail dated 8th January 2009;
- (h) Third Schedule; and
- (i) Registration of Financial and Other Interests - Councillor Mrs J Bird.

54. INITIAL ASSESSMENT - CASE NO. 11

Having considered the allegation made against Councillor Mrs J Bird serving on St. Neots Town Council and having consulted the Monitoring Officer for advice during their deliberations, the Sub-Committee

RESOLVED

- (a) that the allegation made by Councillor D A Giles be not referred for investigation and that no further action be taken in the case for the reasons set out in the "Decision Notice: No Further Action" appended to these Minutes; and
- (b) that Councillor Mrs Bird be advised of the requirement to update her declaration of financial and other interests on a regular basis and to consider whether she needed to declare her membership of a political party.

55. SUB-COMMITTEE REVIEW OF PERFORMANCE AND OTHER ISSUES

Members reviewed the work of the Sub-Committee since its inception and the approach it had taken towards the consideration of allegations of misconduct.

The Sub-Committee was satisfied with the positive/useful outcomes which had emerged from their deliberations thus far and expressed contentment with the advice and guidance that they had received from the Monitoring Officer during this process. In terms of additional support, the Sub-Committee considered that it would be useful to receive examples of the "Case Review" to assist in their assessments and, referring to the extent of case papers collated, accepted that there was a difficult balance to draw when making preliminary enquiries about an allegation but requested that, in the first instance, sufficient information be collated by the Monitoring Officer to enable the Sub-Committee to properly assess a case.

However, Members considered that it would be useful to be advised, in advance, of the name of the Councillor against whom an allegation had been made in case there was a question of a conflict of interest with those participating in the Sub-Committee meeting. To give publicity to the work of the Sub-Committee and to highlight matters which had given rise to the majority of complaints, Members considered that it would be of benefit, particularly to town and parish councils, to feature an article in the Council's magazine District-Wide and to issue press releases. Members also considered that it would be useful to produce a "Review of the Year" which could discuss in broad terms the nature of the complaints which had been received and the constructive and positive action which had ensued from the Sub-Committee's actions.

Lastly, and mindful of the benefit of succession planning, the Sub-Committee considered that other Members of the Standards Committee should be encouraged to observe their proceedings as a learning exercise.

Chairman

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DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 10

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7(c) of Schedule 12A to the Local Government Act 1972 and paragraph 8(b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 13th February 2009, the Referrals (Assessment) Sub-Committee of this authority comprising Messrs P L Boothman (Chairman) and G Watkins and Councillor Mrs B E Boddington considered a complaint concerning the conduct of Councillor P H Dakers.

The complaint alleged that Councillor P H Dakers had breached paragraphs 3 (1), 3 (2), 3 (2) (b) and 3 (2) (c) of the District Council's Code of Conduct which states that –

"3 (1) you must treat others with respect;

3 (2) (a) you must not do anything which may cause your authority to breach any of the equality enactments;

(b) you must not bully any person;

(c) you must not intimidate or attempt to intimidate any person who is or is likely to be

(i) a complainant;

(ii) a witness; or

(iii) involved in the administration of any investigation or proceedings in relation to any allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.

The complaint alleged that Councillor Dakers had by way of two e-mails dated 16th and 17th January 2009 failed to treat Councillor S Kindesley with respect and had by the nature of the e-mails, bullied and intimidated the recipient and used language which might be considered to be racist towards the traveling community.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub Committee of the Standards Committee decided that no further

action should be taken in the case as no potential breach of the Code of Conduct was disclosed by the complaint.

Reasons for Decision

In reaching their conclusion the Sub-Committee were mindful of several factors -

- ◆ In the context of political life, and while not condoning some of the comments made, the Sub Committee accepted that whilst misconceived the tone of the exchange of views conducted via e-mail was an example of what might be expected during a robust debate between politicians and could not be considered as a failure to treat the recipient with respect;
- ◆ that, although challenging and in parts sarcastic, the tone of the e-mail exchange did not appear aggressive, nor was there sufficient evidence to suggest that Councillor Dakers had intended to bully the recipient;
- ◆ the Sub-Committee did not consider that the language used in the e-mails could be interpreted in such a way to conclude that Councillor Dakers had breached any of the equality enactments; and as allegations in respect of intimidation have to relate primarily to any person involved in the administration of any investigation or proceedings relating to an alleged breach of the Code of Conduct, there was no case to answer in this respect.
- ◆ However, whilst concluding that the complaint did not disclose any potential breach of the Code, the Sub Committee invited Councillor Dakers to apologise to Councillor Kindersley for any offence which may have been caused.

The Sub Committee also invited Councillor Dakers to consider attending training offered by the District Council in connection with equality and diversity issues. The District Council's Learning and Development Advisor could make an arrangement for his attendance in this respect.

In the absence of a Member Training Champion, a copy of this Decision Notice will be sent, on this occasion, to Councillor I C Bates, Leader of the Conservative Majority Group.

This Decision Notice is sent to the person making the allegation.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards

Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed: **Date:**
Mr P L Boothman
Chairman of Sub-Committee

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DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 11

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7(c) of Schedule 12A to the Local Government Act 1972 and paragraph 8(b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 13th February 2009, the Referrals (Assessment) Sub-Committee of this authority comprising Messrs P L Boothman (Chairman) and G Watkins and Councillor Mrs B E Boddington considered a complaint concerning the conduct of Councillor Mrs J Bird.

The complaint alleged that Councillor Mrs J Bird had breached paragraph 4 (a) of the Town Council's Code of Conduct which states that –

“4. You must not –

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
 - (iv) the disclosure is –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with reasonable requirements of the authority”.

The complaint alleged that Councillor Mrs J Bird had contributed to an article which appeared in the “News and Crier” dated 15th January 2009 in relation to the departure of the former Town Clerk from the employment of St Neots Town Council and by so doing had compromised an

agreement undertaken by that Town Council to treat the terms of said agreement as confidential.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken in the case as no potential breach of the Code of Conduct was disclosed by the complaint.

Reasons for Decision

In reaching their conclusion, the Sub-Committee were of the view that the comment alleged to have been made by Councillor Mrs Bird in the "News and Crier" dated 15th January 2009 had not referred to the "circumstances for termination" nor the "terms" negotiated between St Neots Town Council and their former Clerk and therefore that Councillor Mrs Bird had not breached paragraphs 5.1 or 5.2 of the compromise agreement. Therefore, there was no evidence to suggest that Councillor Mrs Bird had disclosed information given to her which was of a confidential nature

This Decision Notice is sent to the person making the allegation.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

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The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed: **Date:**
Mr P L Boothman
Chairman of Sub-Committee

TERMS OF REFERENCE OF THE REFERRALS (ASSESSMENT) SUB-COMMITTEE

Terms of Reference

1. The Referrals (Assessment) Sub-Committee will receive allegations that a Member of Huntingdonshire District Council or the Parish Councils within the District may have failed, to comply with their Authority's Code of Conduct.
2. Upon receipt of each allegation and any accompanying report by the Monitoring Officer¹, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following: -
 - (i) refer the allegation to the Monitoring Officer, with an instruction that he/she undertake a formal investigation of the allegation, or directs that he/she arrange training, conciliation or such appropriate alternative steps as permitted by the Regulations;
 - (ii) refer the allegation to the Standards Board for England;
 - (iii) decide that no action should be taken in respect of the allegation; or
 - (iv) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a Member of another relevant Authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant Authorityand shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.
3. Where the Sub-Committee resolves to recommend any of the actions set out in paragraph 2 above, the Sub-Committee shall state its reasons for that decision.
4. The Sub-Committee shall consider any application received from any Officer of the District Council for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that Officer and may direct the District Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the District Council under Section 2 (2) of that Act.

¹ Where the post of Monitoring Officer is referred to, the text should read, with effect from 27th June 2008, Interim Monitoring Officer until such time as a new Director of Central Services is appointed.

5. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2 (2) of the 1989 Act, and may direct the Authority to include a post in that list. The Sub-Committee shall report their decision, for information, to the next available meeting of the Standards Committee.

Composition of the Referrals (Assessment) Sub-Committee

6. The Referrals (Assessment) Sub-Committee shall comprise three Members of whom one shall be an Independent Member of the Standards Committee who shall chair the Sub-Committee, one Member of the District Council and one Town or Parish Council representative.

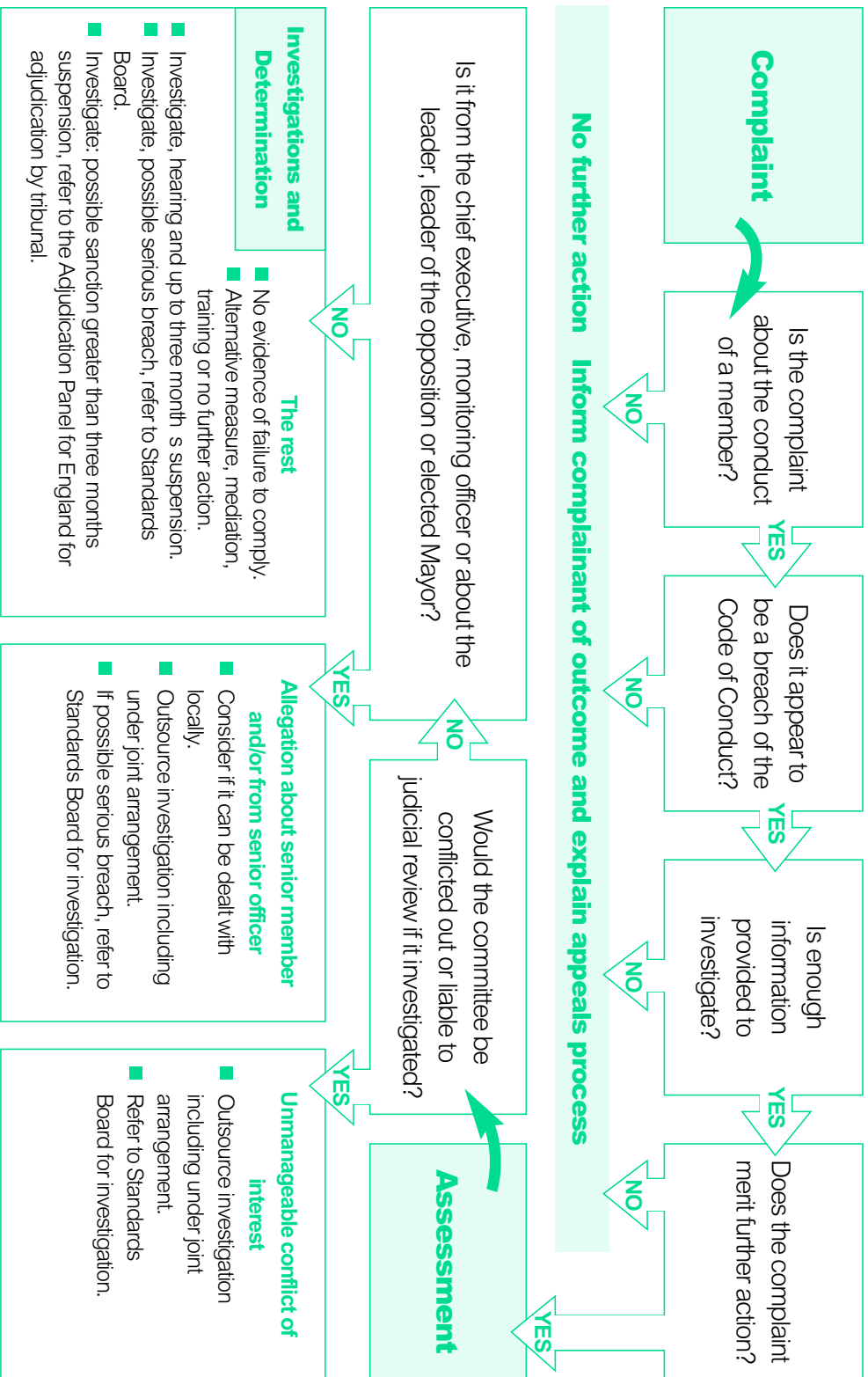
Quorum

7. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the Director of Central Services and Monitoring Officer (or in his absence, the Head of Legal and Estates) be authorised, after consultation with the Chairman of the Standards Committee, to select a substitute Independent Member to chair the Sub-Committee as necessary.

Frequency of Meetings

8. The Sub-Committee shall endeavour to complete its initial assessment of an allegation within an average of 20 working days.

Local assessment complaint handling chart



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GUIDANCE TO ASSIST ASSESSMENT OF CASE

EARLY GUIDANCE RECEIVED FROM THE STANDARDS BOARD ON THE CONDUCT OF AN ASSESSMENT

Which complaints will we refer for investigation?

We decide that a matter should be investigated when we believe that it meets one of the following criteria:-

- It is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or local Standards Committees;
- It is 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;
- In considering this, we will take into account the time that has passed since the alleged conduct has occurred.

Which complaints are we unlikely to refer for investigation?

We are unlikely to decide that a complaint should be investigated if it falls into any of the following categories:-

- We believe it to be malicious, relatively minor or tit-for-tat;
- The same, or substantially similar, complaint has already been the subject of an investigation or enquiry and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel or the local Standards Committee;
- The complaint concerns acts carried out in the Members' private life when they are not carrying out the work of the Authority or have not misused their position as a Member;
- It appears that the complaint is really about dissatisfaction with a Council decision;
- There is not enough information currently available to justify a decision to refer the matter for investigation.

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Agenda Item 6

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