

A meeting of the **REFERRALS (ASSESSMENT) SUB COMMITTEE** will be held in **ROOM CVSO 1B, CIVIC SUITE, PATHFINDER HOUSE, ST. MARY'S STREET, HUNTINGDON, CAMBS, PE29 3TN** on **THURSDAY, 10 FEBRUARY 2011** 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** (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 21st December 2010.

**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. GUIDANCE TO ASSIST ASSESSMENT OF CASE** (Pages 5 - 8)

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

**4. EXCLUSION OF PRESS AND PUBLIC**

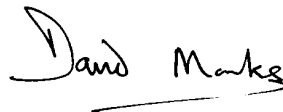
To resolve:-

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.

**5. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 40**  
(Pages 9 - 14)

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 2nd day of February 2011

  
David Markie

## 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](mailto: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](http://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.*

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the REFERRALS (ASSESSMENT) SUB COMMITTEE held in ROOM CVS0 1A, CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S TREET, HUNTINGDON, PE29 3TN on Tuesday, 21 December 2010.

PRESENT: Mr M Lynch – Chairman.

Councillor A Hansard and Mr G Watkins.

### **23. MINUTES**

The Minutes of the meeting of the Sub-Committee held on 22nd October 2010 were approved as a correct record and signed by the Chairman.

### **24. MEMBERS' INTERESTS**

No interests were declared.

### **25. GUIDANCE TO ASSIST ASSESSMENT OF CASES**

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

### **26. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED

that the public be excluded from the meeting because the business to be transacted contained 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.

### **27. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 38**

The Sub-Committee considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist their deliberations in respect of a complaint received against two Councillors serving on Ramsey Town Council -

- ◆ original complaint: email from Councillor M Cusack;
- ◆ email from Ramsey Town Clerk dated 10th December and enclosures which included - Town Council Minutes: 9th and 23rd September 2010;
- ◆ report to Town Council meeting - 9th September 2010;
- ◆ proposed cycle track - public letter dated 23rd July; and
- ◆ registration of interest forms of Councillors R McFadyen and Mrs P Taylor.

A copy of the Standing Orders of Ramsey Town Council also had been circulated to the Sub-Committee after the despatch of the

agenda, a copy of which also is appended in the Minute Book.

Prior to their consideration of the allegations made, the Monitoring Officer confirmed that the complainant had been advised that the provisions of the Code of Conduct did not apply to the actions of the Town Council as a body or organisation and thus that element of the complaint should be disregarded.

**28. INITIAL ASSESSMENT - CASE NO. 38**

Having considered the allegations made in the complaint against Councillors Mrs P Taylor and R McFadyn of Ramsey Town Council seeking the advice of the Monitoring Officer as appropriate, it was

RESOLVED

- (a) that no further action be taken in respect of the allegation against Councillor Mrs P Taylor for the reason set out in the "Decision Notice - No Further Action" appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint; and
- (b) that, whilst the actions of Councillor McFadyn clearly were a breach of the Code of Conduct, the complaint be not investigated but referred to the Monitoring Officer for other action for the reasons set out in the "Decision Notice - Referral For Other Action" appended to these Minutes.

**29. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 39**

The Sub-Committee considered the pre-assessment report by the Monitoring Officer to which was attached the following correspondence/information (a copy of which is appended in the Minute Book) to assist Members in assessing the case -

- ◆ original complaint form; and
- ◆ registration of interests form.

**30. INITIAL ASSESSMENT - CASE NO. 39**

Further to the allegation made in the case of Councillor N Gowler of Upwood and the Raveleys Parish Council and having regard to the evidence presented and the advice of the Monitoring Officer, it was

RESOLVED

that, as it was the Sub-Committee's opinion that the alleged incident would not have been serious enough to amount to a breach of the Code of Conduct, the complaint be referred to the Monitoring Officer for other action for the reasons set out in the "Decision Notice - Referral for Other Action" appended to these Minutes.

The Chairman thanked his colleague Members, the Monitoring Officer and Democratic Services Manager for their support and contribution

to the work of the Sub-Committee during the past year.

Chairman

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## DECISION NOTICE: NO FURTHER ACTION

### Reference: Case No. 38 (i)

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 21st December 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Mr M Lynch (Chairman), Councillor A Hansard and Mr G Watkins considered a complaint from Councillor M Cusack concerning the conduct of Councillor Mrs P Taylor of Ramsey Town Council.

The complaint alleged that Councillor Mrs Taylor had breached paragraphs 5 and 6 (a) of the Town Council's Code of Conduct which states that –

- "5. you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; and
- 6 (a) you must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any person, an advantage or disadvantage".

The complainant alleged that Councillor Mrs Taylor had brought her office as Mayor of the Town Council into disrepute by failing to rescind a decision taken by the Council at a meeting held on 9th September 2010 in respect of the proposed site for a BMX cycle track on King George V Playing Field in Ramsey. It was also suggested that Councillor Mrs Taylor had used her position as a Member improperly to secure an advantage for Councillor McFadyen by allowing him to participate in the debate and vote on the item knowing he had an interest in the business under discussion.

### 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 on the allegation.

### Reasons for Decision

In reaching their conclusion, the Sub-Committee had regard to Section 15 of the Standing Orders of Ramsey Town Council which prescribes a procedure for the rescission of a previous resolution by the Council. It was the Sub-Committee's view that it was the role of the Town Clerk to advise the Council of the availability of this procedure which could have been invoked to rescind the previous resolution given also that this would only have involved

a written notice bearing the names of two Members of the Council. In terms of the allegation that Councillor Mrs Taylor, as Mayor allowed Councillor McFadyen to continue to participate in decision making on the location of the BMX cycle track, the Sub-Committee were mindful of the guidance of 'Standards For England' which states that, ultimately, it is the responsibility of an individual Councillor to take advice, where appropriate, to enable him/her to make a decision as to the most suitable course of action in terms of the declaration of personal and prejudicial interests. Accordingly it was considered that Councillor Mrs Taylor had no case to answer.

This Decision Notice is sent to the person making the allegation, the Member against whom the allegation was made and the Town Clerk, Ramsey Town Council.

### **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:** ..... 23<sup>RD</sup> DECEMBER 2010 .....  
Mr M Lynch  
Chairman of Sub-Committee



## DECISION NOTICE: REFERRAL FOR OTHER ACTION

### Reference: Case No. 38 (ii)

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, all 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 21st December 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Mr M Lynch (Chairman), Councillor A Hansard and Mr G Watkins considered a complaint from Councillor M Cusack concerning the alleged conduct of Councillor R McFadyen, a Member of Ramsey Town Council.

The complaint alleged that Councillor McFadyen had breached paragraphs 9,10,and and 12 of the Town Council's Code of Conduct which states that –

- "9. where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent;
10. where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest; you also have a prejudicial interest if that business affects your financial position or the financial position of a person or body connected to you through a personal interest or relates to the determination of any approval, consent, license, permission or registration in relation to you or any person or body (connected to you through a personal interest); and
12. where you have prejudicial interest in any business of your authority you must withdraw from the room or chamber where a meeting considering the business is being held."

The complaint alleged that Councillor McFadyen had failed to declare a personal and prejudicial interest by virtue of his appointment as Secretary to the organisation "Back on Track" and continued to participate in debate and the vote on an item relating to the proposed siting of a BMX cycle track at King George V Playing Fields, Ramsey; an item which was considered by Ramsey Town Council on 9th September 2010.

### 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 not to refer the allegation for investigation but to refer the matter to the Monitoring Officer for other action.

### Reasons for Decision

The Sub-Committee was of the view that, as Secretary to the organisation "Back on Track", Councillor McFadyen had held a personal and potentially a prejudicial interest in terms of the business considered by Ramsey Town Council on 9th September 2010 relating to the proposed location of the BMX cycle track on King George V Playing Fields, Ramsey. That Councillor McFaden failed to declare his interest when the business under consideration was being discussed was clearly a breach of the Town Council's Code of Conduct.

Whilst the Sub-Committee did not condone the Councillor's conduct there was evidence to suggest that he would benefit from training on the Code of Conduct. The Monitoring Officer was requested to make arrangements accordingly. It was further recommended that the Members of Ramsey Town Council and the Town Clerk also be invited to the training session to be arranged for this purpose.

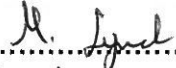
It was also apparent that Councillor McFadyen had overlooked the necessity to declare his position as Secretary to "Back on Track" on his declaration of financial and other interests and the Sub-Committee asked that this matter also be drawn to the Councillor's attention for action.

This Decision Notice is sent to the person making the allegation, the Member against whom the allegations were made and to the Clerk to Ramsey Town Council.

### 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: 23<sup>RD</sup> DECEMBER 2010  
Mr M Lynch  
Chairman of Sub-Committee

## **DECISION NOTICE: REFERRAL FOR OTHER ACTION**

### **Reference: Case No. 39**

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, all 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 21st December 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Mr M Lynch (Chairman), Councillor A Hansard and Mr G Watkins considered a complaint from Mrs L Johnson concerning the alleged conduct of Councillor N Gowler, a Member of Upwood and the Raveleys Parish Council.

The complaint alleged that Councillor Gowler had breached paragraphs 3 (1) and 5 of the Parish Council's Code of Conduct which state -

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

5. you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

The complaint alleged that Councillor Gowler had failed to treat the complainant and her husband with respect by addressing them both in a 'rude and confrontational tone' at the allotments in Upwood regarding their use of the allotment tap. By his actions, it also was alleged that Councillor Gowler had conducted himself in a manner which brought his office as Member of the Parish Council into disrepute.

### **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 not to refer the allegation for investigation but to refer the matter to the Monitoring Officer for other action.

### **Reasons for Decision**

In reaching their conclusion, the Sub-Committee was reminded that the Code of Conduct is applicable whenever an individual acts in his/her official capacity as a Councillor, whenever he/she conducts the business of the authority of which he/she is a Member, or acts, claims to give the impression that they are acting in an official capacity or as a representative of the Parish Council. On the basis of the evidence received and having regard to the content of extracts from Parish Council Minutes dated 4th November 1975, 20th January and 23rd March 1976 and 24th March 1977 which suggested that Councillor Gowler may have been factually incorrect when advising the complainant regarding use of the tap, the Sub-

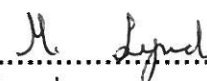
Committee formed the view that he was acting or purporting to act as a Councillor in his exchange with the complainant and that, if correct, the allegations would constitute a failure to treat Mrs Johnson with respect. Whilst there was no evidence to suggest that Councillor Gowler's conduct was intentional, in the Sub Committee's opinion, the alleged incident would not have been serious enough to amount to bringing his office into disrepute. However, given the standard of behaviour expected of an elected representative, the Sub-Committee requested Councillor Gowler to apologise to Mrs Johnson in writing with the form and wording of the apology to be agreed in advance with the District Council's Monitoring Officer. Should the apology not be forthcoming, the Sub-Committee would wish to determine whether to pursue the allegation through to an investigation.

This Decision Notice is sent to the person making the allegation, the Member against whom the allegations were made and to the Parish Clerk of Upwood and the Raveleys Parish Council.

### 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: ..... 23<sup>RD</sup> DECEMBER 2010 .....

Mr M Lynch  
Chairman of Sub-Committee

## **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.

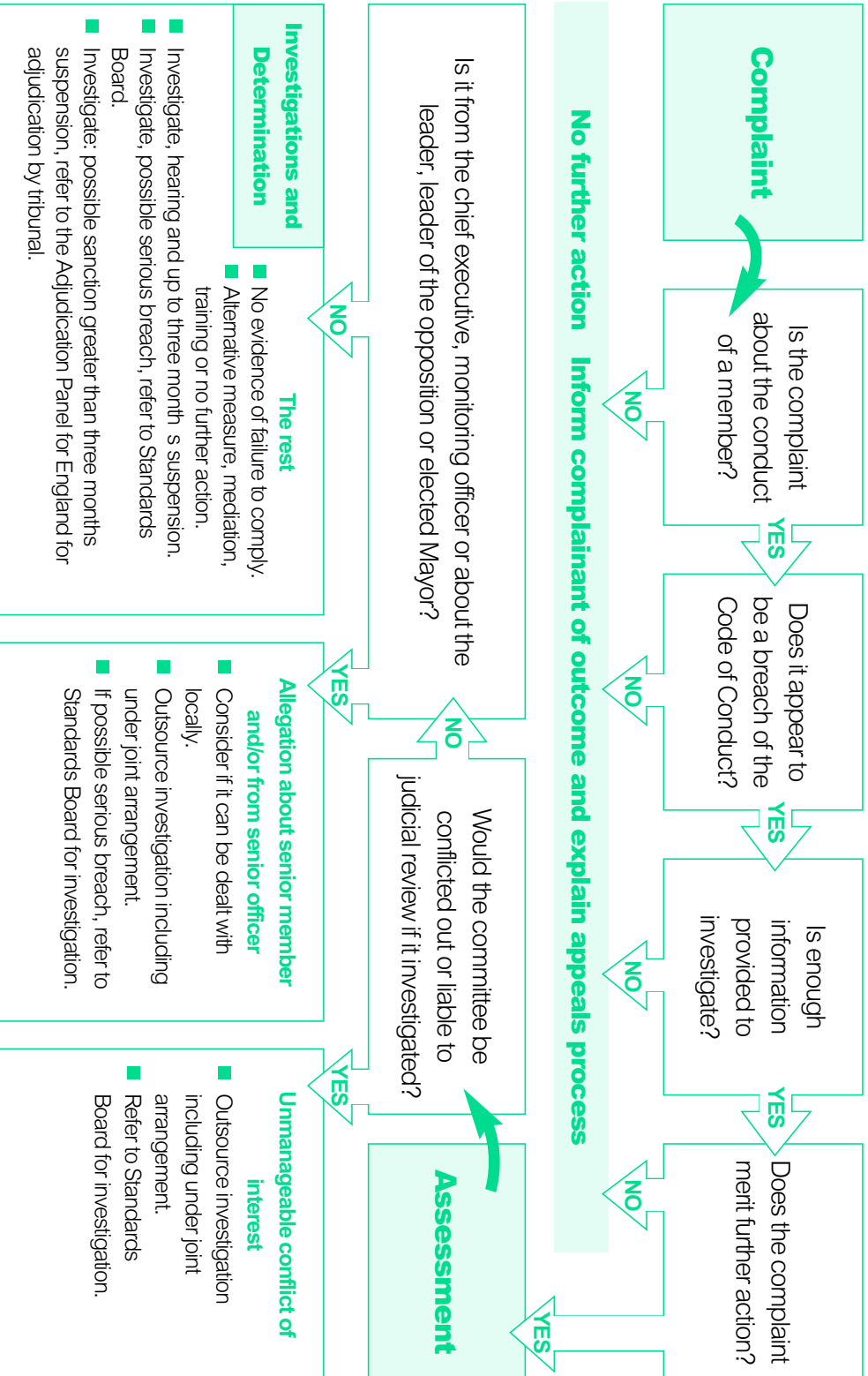
#### **Which complaints are we unlikely to refer for investigation?**

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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**Local assessment complaint handling chart**



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# Agenda Item 5

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