



NORFOLK POLICE AUTHORITY

Ensuring an Efficient and Effective Police Service

Ethical Standards Committee

Code of Conduct Assessment of Complaints Procedure

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Chief Executive
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Explanatory Note: This Procedure should be read in conjunction with the Standards Committee (England) Regulations 2008, SI 1085/2008 and Guidance issued by the Standards Board for England, Local Assessment of Complaints.

This Procedure, made pursuant to Regulation 10 of the Standards Committee (England) Regulations 2008, was adopted by the Ethical Standards Committee of Norfolk Police Authority on 23 September 2008.

NORFOLK POLICE AUTHORITY

Ethical Standards Committee

Code of Conduct – Assessment of Complaints Procedure

1. Introduction

- 1.1 This Procedure is produced to comply with Regulation 10 of the Standards Committee (England) Regulations 2008 in respect of the local assessment of complaints arising against members under the Code of Conduct. The Procedure sets out the steps that will be followed in relation to any written allegation that is received in relation to a member or co-opted member of the Authority that they have failed, or may have failed to comply with the Authority's Code of Conduct. The Code of Conduct may be viewed on the Authority's website at www.norfolk-pa.gov.uk or alternatively at the Chief Executive's offices at Jubilee House, Falconers Chase, Wymondham, Norfolk, NR18 0WW during 9.00 am – 5.00 pm on weekdays (excluding Public Holidays).
- 1.2 The Authority has established two Sub-Committees of the Ethical Standards Committee, namely an Initial Assessment Sub-Committee and a Review Sub-Committee, which will perform the roles required under the Regulations for the local assessment of complaints. Each will be constituted under the Regulations and will comprise three members of the Ethical Standards Committee. Membership of the Sub-Committees will be appointed on a case by case basis

2. Making a Complaint

- 2.1 Complaints must be submitted in writing to:

Chief Executive
Norfolk Police Authority
Jubilee House
Falconers Chase
Wymondham
Norfolk
NR18 0WW

This includes submission by fax and electronic communications. If for reasons of disability a complainant is unable to make a written complaint, they should contact the Chief Executive on telephone 01953 424455 for consideration of alternative arrangements. Similarly, if a complainant's first language is not English, contact should be made with the Chief Executive.

- 2.2 All complaints must provide the following information:

- the complainant's name, address and other contact details (i.e. telephone numbers and email address);

- the complainant's status (for example, member of the public, member or officer);
- the name of the person about whom the complaint is made;
- details of the alleged misconduct including where possible, the date(s), witness details and other supporting information.

Complainants should be aware that in most circumstances, their identity will be disclosed to the member in relation to which the complaint is made. However in exceptional circumstances, providing relevant criteria are satisfied and at the discretion of the Ethical Standards Committee, this information may be withheld. For these purposes see paragraph 13 below.

3. Action on Receipt of a Complaint

- 3.1 Upon receipt of a complaint, the Chief Executive, who is the Authority's Monitoring Officer, will determine whether the complaint should be directed to the Initial Assessment Sub-Committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the Monitoring Officer will not pass it to the Initial Assessment Sub-Committee but will take other action appropriate to its content.
- 3.2 The Monitoring Officer may on receipt of the complaint take the administrative step of acknowledging receipt of the complaint and telling the member about whom the complaint is made that a complaint has been received. The notification to a member may say that a complaint has been made, state the name of the complainant (unless the complainant has requested confidentiality and the Initial Assessment Sub-Committee has not yet considered whether or not to grant it), and the relevant paragraphs of the Code of Conduct that are alleged to have been breached. Further, the member should be advised that a written summary of the allegation will only be provided to the member once the Initial Assessment Sub-Committee has met to consider the complaint, and the date of this meeting if known.
- 3.3 If the Monitoring Officer chooses to advise the member, the Monitoring Officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In this regard consideration will, amongst other things, need to be given to Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the Standards Committee (England) Regulations 2008. Only the Ethical Standards Committee has the power, under Section 57C(2) of the Local Government Act 2000, to give a written summary of the allegation to the member.
- 3.4 Where the Monitoring Officer is satisfied that a complaint is about member conduct they shall arrange for a meeting of the Initial Assessment Sub-Committee.

4. Initial Assessment Sub-Committee

4.1 In readiness for a meeting of the Initial Assessment Sub-Committee the Monitoring Officer should be in position to provide the following details:

- whether the complaint is within jurisdiction;
- the paragraphs of the Code of Conduct that the complaint may relate to or that the complainant has identified;
- a summary of the key aspects of the complaint if it is lengthy or complex;
- any further information that the Monitoring Officer has obtained to assist the Initial Assessment Sub-committee with its decision; this may include:
 - a copy of the declaration of acceptance of office form and an undertaking to observe the code;
 - minutes of meetings;
 - a copy of a member's entry in the register of interests.

4.2 The Monitoring Officer may also contact the complainant for clarification of their complaint if they are unable to understand the document submitted. However, pre-assessment enquiries should not be undertaken in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant or the member subject to the complaint.

4.3 Before assessment of a complaint begins the Initial Assessment Sub-Committee should be satisfied that:

- the complaint is made against one or more members of the Authority;
- the named 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 member was operating at the time of the alleged misconduct.

4.4 If the complaint fails one or more of these tests it will not be investigated as a breach of the Code. The complainant will be advised that no further action will be taken in respect of the complaint.

5. Assessment Criteria

5.1 In considering a complaint the Initial Assessment Sub-Committee will have regard to the following non-exhaustive list of criteria:

- Has the complainant submitted sufficient information to satisfy the Initial Assessment Sub-Committee that the complaint should be referred for investigation or other action?
- Is the complaint about someone who is no longer a member of the Authority but is a member of another Authority? In such circumstances does the Initial Assessment Sub-Committee wish to refer the complaint to the Monitoring Officer of that other authority?
- Has the complainant already been subject of an investigation or other action relating to the Code of Conduct?
- Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
- Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

6. Initial Assessment Decisions

- 6.1 The Initial Assessment Sub-Committee should, where practicably possible, meet and complete the initial assessment within 20 working days of receipt of a complaint.
- 6.2 The decisions that may be reached upon a complaint comprise the following:
- referral of the complaint to the Monitoring Officer of the Authority concerned, which under Section 57A(3) of the Local Government Act 2000, may be another Authority;
 - referral of the complaint to the Standards Board for England;
 - referral for other action;
 - no action should be taken in respect of the complaint.

Referral for local investigation

- 6.3 Where the Initial Assessment Sub-Committee considers a new complaint, it can decide that it should be referred to the Monitoring Officer for investigation. The Monitoring Officer must then write to the relevant parties advising them of the decision and, where appropriate, advising them of who will be responsible for conducting the investigation.

Referral to the Standards Board for England

- 6.4 In most cases the Authority will be able to deal with the investigation of complaints concerning its members. However in circumstances where there are issues in a case, or public interest considerations which make it difficult for the Authority to deal with the case speedily or fairly, the Initial Assessment Sub-Committee may wish to refer a complaint to the Standards Board to be investigated.
- 6.5 Where the Initial Assessment Sub-Committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. Where such a referral is made, the Sub-Committee should advise the Standards Board of the paragraph or paragraphs of the Code of Conduct that are engaged and the reasons why it cannot be dealt with locally.
- 6.6 The matters that will be taken into account by the Standards Board in determining which cases should be accepted in the public interest are set out in the Guidance issued by the Standards Board and entitled "Local Assessment of Complaints".
- 6.7 If the Standards Board declines to investigate a complaint that is referred to it, it will be sent back to the Authority's Ethical Standards Committee. The Initial Assessment Sub-Committee will then determine the next course of action.
- 6.8 The Initial Assessment Sub-Committee will then take an assessment decision, where practicably possible, within 20 working days of receipt of the notification from the Standards Board. At this point the Initial Assessment Sub-Committee will decide whether to take no further action, refer the matter for local investigation, or to refer the matter for some other form of action. The decision will need to be communicated to the relevant parties.

Referral for Other Action

- 6.9 When the Initial Assessment Sub-Committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the Monitoring Officer to carry this out. Before reaching a decision to take other action, the Initial Assessment Sub-Committee shall consult with the Monitoring Officer. The circumstances where a referral for other action would be appropriate is set out in the Standards Board Guidance referred to above.
- 6.10 Where a complaint has been referred to the Monitoring Officer for other action it will not then be referred back to the Ethical Standards Committee if the other action is perceived to have failed. The decision to take other action closes the opportunity to investigate and the Initial Assessment Sub-Committee should ensure that this is communicated to all parties. The Initial Assessment Sub-Committee will, in deciding whether to make a 'Referral for Other Action' write to the parties involved to seek their written confirmation that they will co-operate with the process of other action proposed.

Decision to Take No Action

- 6.11 The Initial Assessment Sub-Committee can determine that no action is required in respect of a complaint. This may arise where the Sub-Committee considers that the complaint is insufficiently serious to warrant any action or alternatively because of the length of time that has elapsed since the alleged conduct took place and the complaint being made.
- 6.12 Where no potential breach of the Code of Conduct is disclosed by the complaint, no action can be taken by the Initial Assessment Sub-Committee in respect of it.
- 6.13 The complainant must be advised of their right to ask for a review of a decision to take no action and the Initial Assessment Sub-Committee must ensure this happens. The right to ask for a review can be exercised by the complainant by writing to the Ethical Standards Committee with their reasons for requesting a review. The time limit within which a review request must be received by the Standards Committee is 30 days from the date the initial assessment decision is received by the complainant.

7. Notification Requirements – Local Assessment Decisions

- 7.1 Where the Initial Assessment Sub-Committee decides to take no action over a complaint, then as soon as possible after making the decision, it will give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed the Sub-Committee will explain in the decision notice what the allegation was and why it believes this to be the case. The decision notice will be sent to the relevant parties, namely the complainant and the member subject to the complaint.
- 7.2 Where the Sub-Committee decides that the complaint should be referred to the Monitoring Officer or to the Standards Board, it will send a summary of the complaint to the relevant parties. This will state what the allegation was and what type of referral it made. The decision notice will explain why the particular referral decision has been made. The Sub-Committee will consider whether or not to provide the member subject to the complaint with a summary of the complaint, where doing so would be against the public interest or would prejudice any future investigation. This situation may arise where it is considered likely that the member subject to the complaint may intimidate the complainant or any witnesses involved. It may also arise where early disclosure of the complaint may lead to evidence being compromised or destroyed.
- 7.3 The Sub-Committee will take advice from the Monitoring Officer upon the issue of whether it is against the public interest to inform the member subject to the complaint of the details of the complaint made against them. Similarly advice will be such as to whether informing the member of the details of the complaint would prejudice a person's ability to investigate it.
- 7.4 The Initial Assessment Sub-Committee has the discretion to give limited information to the member subject to the complaint if it considers this would

not be against the public interest or prejudice any investigation. A decision to withhold the summary must be kept under review as circumstances change.

8. Review of No Further Action Decision

- 8.1 If the Initial Assessment Sub-Committee decides not to take any action on a complaint, the complainant has a right of review in respect of that decision. The Review Sub-Committee will carry out a review of the decision within a maximum of three months of receiving the request. Whilst this maximum period is provided for, the Review Sub-Committee will aim to complete the review within 20 days of receipt of the request.
- 8.2 Members of the Review Sub-Committee must not have comprised any part of the Initial Assessment Sub-Committee.
- 8.3 The Review Sub-Committee will apply the same criteria as used for the initial assessment (see Section 5).
- 8.4 The Review Sub-Committee has the same decisions available to it as the Initial Assessment Sub-Committee (see Section 6).
- 8.5 There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such circumstances, the Review Sub-Committee should consider carefully if it is more appropriate to pass this to the Initial Assessment Sub-Committee to be handled as a new complaint. In this situation the Review Sub-Committee will need to make a formal decision that the review request will not be granted.

9. Notification Requirements – Review of Local Assessment Decisions

- 9.1 If the Ethical Standards Committee receives a review request from the complainant, it must notify the member subject to the complaint that it has received the request.
- 9.2 When the Review Sub-Committee reviews the Initial Assessment Sub-Committee's decision it has the same decisions available to it that the Initial Assessment Sub-Committee had. It could be decided that no action should be taken on the complaint. In this situation, the Review Sub-Committee must, as soon as possible after making the decision, give the complainant and the member subject to the complaint notice in writing of both the decision and the reasons for the decision.
- 9.3 If it is decided that the complaint should be referred to the Monitoring officer or to the Standards Board, the Ethical Standards Committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice must explain why the particular referral decision has been made.

10. Access to Meetings – Decision-Making

- 10.1 Initial assessment decisions and any subsequent review of decisions to take no further action on a complaint will be conducted in closed meetings. These

meetings are not subject to the notice and publicity requirements of Part V of the Local Government Act 1972.

10.2 After an Initial Assessment Sub-Committee or Review Sub-Committee has considered a complaint, they must produce a written summary which must include:

- the main points considered;
- the conclusions on the complaint;
- the reasons for the conclusion.

10.3 The summary must be written having regard to the Standards Board Guidance and may give the name of the member subject to the complaint unless doing so is not in the public interest or would prejudice any subsequent investigation.

10.4 The written summary must be made available for the public to inspect at the Authority's office for six years.

10.5 In a limited number of situations, the Ethical Standards Committee can determine not to give the written summary to the subject member when a referral decision has been made. This will normally be the case when the written summary is to be given to the member subject to the complaint during the investigation process.

11. Withdrawing Complaints

11.1 Where a complainant asks to withdraw their complaint prior to the Initial Assessment Sub-Committee having made a decision concerning it, the Initial Assessment Sub-Committee will need to decide whether to grant the request. In discharging this role the Initial Assessment Sub-Committee will consider the following:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it without the participation of the complainant?
- Is there an identifiable underlying reason for the request to withdraw the complaint?

12. Multiple and Vexatious Complaints

12.1 The Initial Assessment Sub-Committee must consider every new complaint that is received in relation to the Code of Conduct. If, however, the Ethical Standards Committee has already dealt with the same complaint by the same person and the Monitoring Officer does not believe that there is any new evidence, then a complaint will not need to be considered.

13. Confidentiality

13.1 In most circumstances a member will be told who has complained about them. However in exceptional circumstances the Initial Assessment Sub-Committee may grant a complainant confidentiality. The circumstances in which a request for confidentiality may be granted include:

- where the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
- where the complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed;
- where the complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed.

13.2 Where revealing the identity of the complainant may be necessary for investigation of the complaint, the complainant will be given the option of requesting a withdrawal of their complaint. The Initial Assessment Sub-Committee will in such circumstances consider whether it is possible to investigate the complaint without making the complainant's identity known.

13.3 Where the Initial Assessment Sub-Committee decides to refuse a request by a complainant for confidentiality, it may offer the complainant the opportunity to withdraw, rather than proceed with their identity being disclosed. The Sub-Committee will need to consider whether the public interest in proceeding with an investigation outweighs the complainant's risk to have their identity withheld from the member subject of the complaint.

14. Anonymous Complaints

14.1 Anonymous complaints will only be considered for investigation or other action by the Initial Assessment Sub-Committee where they include documentary or photographic evidence indicating an exceptionally serious or significant matter.

15. Conflicts of Interests

15.1 All issues of conflict of interest in respect of members of the Ethical Standards Committee shall be referred to the Monitoring Officer for advice. Members of the Ethical Standards Committee are referred to the Guidance issued by the Standards Board for assistance with issues relating to conflict of interests.

15.2 Officers involved in complaints issues should similarly be mindful of issues relating to conflict of interest and are referred to the Monitoring Officer and the Standards Board Guidance for advice.

16. Complaints about Members of more than one Authority

16.1 A complaint may be made about a member who is a member of more than one Authority. The member may have failed to comply with more than one Authority's Code of Conduct. It would be possible for the Ethical Standards

Committees of both Authorities to receive complaints against the member. Where a complaint is received in such a case, the Monitoring Officer will check to ascertain whether a similar allegation has been made to the other Authority. A decision as to which Initial Assessment Sub-Committee should deal will be taken by the respective Sub-Committees themselves.

17. Hearings by the Ethical Standards Committee

- 17.1 Ultimately, following the local assessment steps and decisions involved at that stage, it may be necessary to hold a hearing of the Ethical Standards Committee. In such circumstances the steps required will need to follow the regulatory framework provided for in statute and regulations and, guidance issued by the Standards Board for England. The Monitoring Officer will give appropriate advice to the Ethical Standards Committee of the matters which will need to be addressed.

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