



Northern Ireland

Local Government

Commissioner for Standards

Public Interest Considerations

Introduction

The Northern Ireland Code of Conduct for Councillors sets out the high standards of behaviour which the public expects from its elected representatives. Our role is to build confidence in local government in Northern Ireland by promoting and regulating those standards. We aim to help councillors achieve the standard of conduct which meets public expectations; to support proper decision-making and the proper use of public resources; and to maintain public confidence in local government and in the democratic process itself. Undertaking investigations that do not support these wider benefits is not in the public interest. In addition, our resources are limited and it is important that we focus on the investigation of significant matters which go to the heart of the relationship between councillors and the public they serve and not on matters which are trivial or which have little or no impact on the public.

The public interest should be considered in deciding (i) whether a complaint against a councillor can and should be investigated, or (ii) whether an investigation should continue, or (iii) whether a matter should be referred to the Commissioner for adjudication.

There is no widely accepted definition of public interest but it has been described as 'something which is of serious concern and benefit to the public'. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest, or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public). The public in this context does not necessarily mean the entire population of Northern Ireland. It may refer to a distinct section of the public such as a small community or interest group.

1. Seriousness

The more serious the alleged breach, the more likely it is that we will investigate. Investigators should consider whether the alleged breach is so serious that an investigation is in the public interest.

When deciding the level of seriousness of the allegation, relevant considerations are: the extent to which the councillor was responsible for or was to blame for the alleged breach; the circumstances of the complaint; and whether the alleged conduct caused harm to any person.

(a) To what extent was the councillor responsible for or to blame for the conduct complained of?

Questions of responsibility or blame are likely to be determined by the councillor's level of involvement; the extent to which the alleged breach was premeditated and/or planned; whether they have previously been investigated or been referred to the Commissioner for an adjudication decision on a similar matter, or have been sanctioned for a previous breach; whether the conduct complained of is ongoing, repeated or has escalated; the councillor's length of service; and level of experience/knowledge of the councillor in relation to the issue in question.

(b) What are the relevant circumstances of any person affected by the alleged breach and has the alleged breach caused harm to any person?

Although a breach of the Code may affect the public at large, it can also cause harm to individuals or to specific groups or bodies. In considering the seriousness of a breach, the circumstances of any person affected by the breach are relevant and we will take these into consideration. Investigators should also have regard to whether the alleged breach was motivated by any form of discrimination against a person's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the councillor demonstrated hostility towards a person based on any of those characteristics. In deciding whether an investigation is required in the public interest investigators should take into account any views expressed by the complainant, or any other person affected, about the impact that the alleged breach has had on them.

2. Proportionality

Investigators should consider the cost of the investigation and any adjudication, especially where it could be regarded as excessive *when weighed against any likely sanction*. Investigators should not decide the public interest on the basis of cost alone, but it is a relevant consideration when making an overall assessment of the public interest. In determining whether an investigation would be in the public interest, Investigators should consider whether it would be more appropriate for the Commissioner to exercise his powers¹ to take action instead of, or in addition to, an investigation.

These considerations will assist Investigators in identifying the public interest, but they are not exhaustive and not all are relevant in each case. In any event, consideration of the public interest is only one of a number of criteria which must be met in deciding whether to investigate a complaint: crucially the complaint must also be supported by evidence of a breach of the Code.

¹ Under Section 55 (2) of the Local Government (Northern Ireland) Act 2014