

Standards Committee - 10th June 2008

Report of the Monitoring Officer

Local Initial Assessment of Complaints

Purpose of Report

1. To consider arrangements for the Local Initial Assessment of Complaints under the Members' Code of Conduct.

Background

2. The Standards Committee (England) Regulations 2008 came into force on the 8th May 2008 and introduced new arrangements for processing complaints of alleged breaches of the Code of conduct.
3. Under the new arrangements a complaint of an alleged breach of the Code must now be submitted in writing to the local Standards Committee rather than to the Standards Board for England. The Standards Committee must publish its arrangements for making a complaint. In order to satisfy this requirement we have published a formal notice in the local press and issued a press release. In addition information regarding the new arrangements appear on the Council's Website (including the Complaint Form and Information Pack) now.
4. When a complaint is received it will be referred to the Referrals Sub-Committee in order to assess whether or not the complaint should be investigated and, if so, whether it should be investigated locally or referred to the Standards Board for England. At the April meeting of this Committee it was decided that the Sub-Committee would comprise 3 members comprising Lesley Smith (Chairman), Councillor John Davies and Councillor Ian Kettle. At the Annual Meeting of the Council on the 15th May 2008 Councillor Kettle was replaced as a member of the Standards Committee by Councillor Mike Attwood. The Committee is asked to re-appoint this Sub-Committee for 2008/9 and draft detailed Terms of Reference are attached as Appendix 1.
5. If the Referrals Sub-Committee determines not to investigate, the complainant has the right to have the decision reviewed by a differently constituted Sub-Committee, the Review Sub-Committee. At the April meeting of the Committee this Sub-Committee was appointed and its membership comprised John Beards (Chairman), Councillor Serena Craigie and Councillor Gaye Partridge. Councillor Craigie is no longer a member of the Council and at the Annual Meeting of the

Council on the 15th May she was replaced on the Standards Committee by Councillor Lynn Boleyn. The Committee is asked to re-appoint this Sub-Committee for 2008/9 and draft detailed Terms of Reference are attached at Appendix 2.

6. Although the Referrals Sub-Committee may decide not to refer a case for investigation, it may issue a direction to the Monitoring Officer to take other steps including arranging:-
 - training for the member who is the subject of the allegation;
 - for the member and complainant to engage in a process of conciliation.

However, if these other steps are not successful, the matter cannot be referred back to the Referrals Sub-Committee to reconsider whether the complaint should be investigated.

7. If there is a local investigation, this will be undertaken by or on behalf of the Monitoring Officer and a report will be produced. The report will initially be considered by the Referrals Sub-Committee who will determine whether to accept a finding of no failure to observe the Code or refer the matter to the Adjudication Panel for England or refer it for hearing by the Hearings Sub-Committee. At its April meeting the Committee appointed a Hearings Sub-Committee comprising the Bishop of Dudley (Chairman) and Councillors Pat Martin and David Tyler. The Committee is asked to re-appoint this Sub-Committee for 2008/9 and approve the draft detailed Terms of Reference set out in Appendix 3.
8. Where a hearing results in a finding of a breach of the Code, the maximum sanction available to the Hearings Sub-Committee is increased to a suspension of the member for 6 months. If the Sub-Committee consider that a greater penalty should be imposed, they can refer the matter to the Adjudication Panel for England.

Local Assessment Guidance

9. A copy of the Local Assessment Guidance recently issued by the Standards Board for England is attached at Appendix 4.
10. The Guidance provides useful advice in a number of areas but of particular value is the suggested criteria against which the Referrals Sub-Committee should assess new complaints and determine what action, if any, to take. These criteria are set out on pages 11 and 12 of the Guidance and are as follows:-
 1. Has the complainant submitted enough information to satisfy the Referrals Sub-Committee that the complaint should be referred for investigation or other action?
 2. Is the complaint about someone who is no longer a member of the Council but is a member of another authority? If so, does the Referrals Sub-Committee wish to refer the complaint to the Monitoring Officer of that other authority?

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
 4. Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
 5. Is the complaint sufficiently serious to warrant further action?
 6. Does the complaint appear to be simply malicious, politically motivated or tit-for tat?
11. The Committee is asked to consider and adopt the above assessment criteria.
 12. If there is a referral to the Review Sub-Committee following a decision not to investigate a complaint, it is recommended that the Review Sub-Committee adopt the same assessment criteria together with any new information that may have become available. However, if the new information gives rise to a potential new complaint, the Review Sub-Committee will have to consider whether it would be more appropriate to refer the matter back to the Referrals Sub-Committee to consider.
 13. Pages 25 and 26 of the Guidance provide advice on dealing with anonymous complaints and recommends that the Committee should publish a statement setting out how anonymous complaints will be dealt with. There are 2 schools of thought on this issue. Some take the view that an anonymous complaint should never be investigated whatever the circumstances. Alternatively the recommendation of the Standards Board is that the Referrals Sub-Committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter. I recommend that the Committee adopt the latter approach and include it in the Assessment Criteria, but that we invite the Chief Executive or senior member of the Council to “adopt” the complaint so that it ceases to be anonymous.

Finance

14. The cost of convening meetings and investigating complaints under the new arrangements will be borne by existing budgets.

Law

15. The relevant legislation regarding the Code of Conduct is contained in Part III of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008 as summarised in this report.

Equality Impact

16. The complaint form will include an equality monitoring form the data from which will be summarised in the Annual Report on the Code of Conduct.

Recommendation

17. It is recommended that:-

1. this report be noted;
2. the Referrals Sub-Committee, Review Sub-Committee and Hearings Sub-Committee be reappointed for 2008/9 with the Terms of Reference set out at Appendices 1-3;
3. the Assessment Criteria set out in paragraph 10 of this report be adopted;
4. anonymous complaints be dealt with as set out in paragraph 13 of this report.

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Monitoring Officer

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List of Background Papers

None.