

Item no.

Report to: **Standards Committee**

Date: **6 June 2008**

Report of: **Monitoring Officer**

Subject: **Local Assessment of Complaints**

Ward: **All**

1 **Purpose of the Report**

To agree a mechanism for appointment of Assessment Sub-Committee and Review Sub-Committee and to determine what criteria, if any, will be publicised as the basis on which the initial assessment will be carried out.

2 **Background**

I have attached a copy of the Standards Board Guidance on Local Assessment of Complaints for Members information. The Guidance recommends a minimum of three Members on both the Assessment Sub-Committee and the Review Sub-Committee which was the number adopted in the amendments to the Council's Constitution recently approved by Council. We will need an independent Chair of each Sub-Committee and no Member may participate on both Sub-Committees on the same complaint. For Parish and Town Council complaints we will need one of the Parish Representatives on each Sub-Committee. It appears to me to be good practice to use at least one Parish Representative also to consider complaints against District Councillors. Maximum flexibility will be achieved by permitting the Chief Executive to compose an Assessment Sub-Committee and if necessary, Review Sub-Committee from the Members of Standards Committee for the time being on each occasion when a meeting needs to be convened to deal with a complaint. The intention would be to use different Members for the second and third meeting etc subject to their availability and subject to meeting the requirements for an independent Chair and the preferred mix of one Independent, one Parish and one District Member on each Sub-Committee.

The question of publication of criteria is less straight forward. The Standards Board had developed their own criteria. Any complaint must pass the initial tests listed on page eleven of the Guidance. You should anticipate that any complaint which does not fit those criteria will be accompanied by a very brief report from me recommending rejection! There is a balance to strike between maintaining public confidence by a willingness to take seriously any complaint which is lodged and a need to recognise the public interest in not wasting public time and money in investigating matters of a minor nature where no real benefit will be gained by completion of the process. If the Committee is minded to accept assessment criteria it is recommended that the wording on those issues in Paragraph 11 of the attached document is incorporated. If I considered it likely that a complaint contained insufficient information to satisfy the Assessment Sub-Committee that it should be investigated, the Complainant will be invited to supplement his or her evidence before the report is presented to you. There is no obligation to do so and matters will not be deferred for any significant length of time. If a complaint relates

to a matter which appears already to have been investigated then the Council should publicly say that it will not entertain a further complaint. There are no fixed time limits on making complaints but the longer the period of time which has passed the more difficult it may be to investigate properly and if the quality of evidence is likely to be substantially impaired it may not be in the public interests to undertake an investigation.

There are provisions for conciliation which may be far more suitable for complaints of a trivial nature than a full investigation and determination. The Sub-Committee is entitled to take into account whether a complaint may be malicious politically motivated or tit for tat. The Standards Board used to make it clear that such complaints were far less likely to be investigated and there is no reason why we should not do likewise.

Whilst those are the criteria I would recommend the Committee to publicise I will be keeping a close eye on the approach adopted by other Authorities and advice available from experts in the field and therefore these criteria may well be reviewed in the near future to incorporate best practice nationally.

3 Implications

Financial investigations are expensive. A balance has to be retained between public confidence in the system and unnecessary expenditure on trivial issues.

4 Legal

I am satisfied that the criteria recommended are lawful. Any Council may have to justify its criteria against legal challenge if it adopts criteria which are allegedly too restrictive and prevent legitimate complaints being investigated.

5 Policy

None.

6 LGR

None.

7 Risk

The adoption of these criteria is intended to minimise the risk of challenge.

8 Corporate Plan and Priorities

None.

9 Equality and Diversity

None.

10 E-Government

None.

11 Procurement

None.

12 Communication

The approved criteria will be made available to the public as part of the communication of the change of arrangements for Code of Conduct complaints.

13 Recommendation

The Standards Committee is recommended to:-

- (i) Agree that the Assessment Sub-Committee and Review Sub-Committee should each comprise of three Members to be selected on each occasions by the Chief Executive rotating membership between all Members of the Standards Committee insofar as eligibility and availability on each occasions permits.
- (ii) The Standards Committee agree to adopt the criteria for investigating complaints recommended in this report.

14 Background Papers and Documents

The Standards Board Local Assessment of Complaints Guidance.

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