

Report to the Standards Committee

Date of meeting: 15 July 2009



Subject: Review of Complaints Procedure

Officer contact for further information: Ian Willett - Deputy Monitoring Officer

Recommendations:

(1) That the measures on the following aspects of the Complaints Procedure be considered namely:

- (a) Officer roles;**
- (b) Advice on complaints;**
- (c) Initial Assessments;**
- (d) Assessment and review hearings;**
- (e) Investigation;**
- (f) Grounds for referral; and**
- (g) Correspondence; and**

(2) That agreed points be incorporated in existing procedure notes for future reference.

Purpose of the Report

To review experience with the local assessment review/adjudication process for dealing with complaints.

Review of Complaints Procedure

1. As the complaints/local assessment process has been operating for over a year, officers have reviewed current procedures. The following matters are submitted for discussion:
 - (a) Officer Roles**
2. Currently, the procedures for dealing with complaints recognise the following roles:
 - (i) assessments (S Hill)
 - (ii) reviews of assessments (G Lunnun)
 - (iii) investigations (I Willett)

- (iv) support of all Sub Committees at meetings (C O'Boyle)
- (v) support for Hearings Sub-Committees (G Lunnun)
- (vi) advice on how to complain (S Hill)
- (vii) advice on the Code of Conduct (I Willett/G Lunnun/S Hill)

Items (vi) and (vii) are newly identified roles. Item (vi) has been introduced because experience has shown that advice on the code can easily become a discussion about a complaint. Item (vii) is an existing function which has to be kept separate from the process of investigating a complaint. The proposed staffing allocations for (vi) and (vii) are indicated above.

(b) Advice on Complaints – Mediation/Conciliation

3. Officers feel that there should be attention given to prompting potential complainants to think seriously about whether a complaint is the most appropriate solution.
4. In the Committee's annual report, reference was made to the number of complaints originating from a small number of Parish Councils and, to arrest this trend, it may be necessary for officers as part of the pre-assessment phase to assess whether complaints are merely the continuation of disputes by other means. More emphasis could be placed on conciliation/arbitration as a way of resolving underlying problems. The difficulty with this approach will be finding other agencies/individuals to take on this role. The resources available in this Council for such activity are likely to be restricted so questions of cost may arise.
5. Attached as an Appendix is a report which seeks to raise this matter with Parish Councils at the next Local Councils' Liaison Committee.

(c) Initial Assessments

6. Councillor Mrs Borton has raised a number of concerns about the assessment process as follows:
 - (i) Confidentiality – what policy is to be adopted when a Councillor who has been notified that they are the subject of a complaint approaches a member of the Standards Committee for advice particularly if the latter is the subject of a separate complaint already?

Councillor Mrs Borton also queries the practice adopted in a Parish Council of publicly announcing that a complaint has been made.

Comment: It is a requirement that Standards Committee members should not advise Councillors outside the formal process. This is because, may have to assess the complaint etc. There is a requirement for Parish Council Clerks to be notified that a Parish Councillor is subject to a complaint but this is not for public disclosure for fear of prejudicing the assessment of the complaint.

- (ii) Notification of Complaints

Councillor Mrs Borton expresses concern about the notification of complaints to the subject Councillor. Currently no detail is given, this being disclosed once an investigation is commissioned. The query is that it may be against "natural justice" if the subject Councillor is denied access to the substance of the complaint.

In terms of notification (in the case of Parish and Town Councils) to the Parish Clerk, no detail is disclosed.

Comment: Details of the complaint are not disclosed at the assessment stage because there is a need to maintain confidentiality so that an investigation (if ordered) is not compromised. Notification to the Parish Clerk is a requirement of the procedure but is also confidential.

(d) Assessment/Review Hearings

7. One subject Councillor has complained that they are denied access to Assessment and Review Sub-Committee hearings and that this is against natural justice, in that they are not able to reply to the allegation.

Comment: Standards Board advice indicates that assessment and review hearings should be held in private. This is because these stages in the process are designed to assess the complaint at face value and whether there is a potential breach of the Code, not to carry out an investigation. Furthermore, potentially unfounded and damaging allegations will be considered and should not be disclosed unless properly investigated for adjudication purposes.

(e) Complaint Investigations – Officer Holders

8. The Standards Board advice allows a complaint to be referred if it is considered that a local investigation would not be effective because of the position held by a subject Councillor (e.g. Leader, Cabinet member, Standards Committee member).
9. Officers feel that advice to complainants on this aspect needs to be reinforced. It is also suggested that the policy should be one of considering each such case on its merits and that the arguments for referral to the Standards Board should be set out in the agenda for Assessment Sub Committee meetings.

(f) Grounds for Referral for Investigation

10. Officers suggest that, in advice to complainants and to the Assessment Sub Committee, complaints should be based on no more than one alleged breach of the Code wherever possible. This will not however preclude any other breach which arises in investigation from being taken into account.

(g) Standard Letters

11. Action will be taken to strengthen the standard letters of the Standards Board for the invitation of comments on draft investigation reports. It has sometimes proved difficult to obtain approval/comments from all parties within a reasonable period.
12. A pro forma for responses will be used with a clear timescale. Once the period has elapsed, reports will be finalised.