

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
<b>STANDARDS COMMITTEE</b>	<b>26 JUNE 2008</b>

Report template revised February 2007



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
<b>NEW PROCEDURE/CRITERIA TO BE AGREED FOR DEALING WITH COMPLAINTS ABOUT MEMBERS UNDER THE NEW LOCAL REFERRAL REGIME</b>	<b>NOT APPLICABLE</b>	<b>DAVID WHELAN</b>	<b>5</b>

### **SUMMARY AND LINK TO CORPORATE PRIORITIES**

The introduction of the new Local Referral regime under the provisions of the Local Government and Public Involvement in Health Act 2007 necessitates a change in our procedures in dealing with complaints about Members.

The report recommends the way forward in this regard – in particular a new procedural document together with new criteria for referral is proposed for adoption by the Committee.

It is considered that the Act will impact on a number of the Corporate priorities – in particular “Delivering excellent services.”

### **RECOMMENDATIONS**

1. That Committee should agree the proposed procedure (as attached at appendix 1) to be adopted for dealing with complaints about members under the new Local Referral regime
2. That Committee should agree the criteria for referral (as attached at appendix 2) that Standards Sub Committee will take into account when deciding on how to proceed in any individual case.

### **DETAILS AND REASONING**

The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) came into force on the 31 October 2007. Part 10 of this Act brought into law the new local referral regime for dealing with complaints against members. Essentially since the 8<sup>th</sup> of May 2008 the vast majority of complaints against members will be dealt with by Standards Committee, as opposed to the Standards Board. All complaints are now sent to the Council rather than the Standards Board.

On the 17<sup>th</sup> of April 2008 the Government published regulations in this regard – “The Standards Committee (England) Regulations 2008.” Section 185 of the 2007 Act enables people to make a written allegation to the standards committee of a local authority that a member or co-opted member of the authority has failed to comply with the authority’s code of conduct. The new regulations make provision for dealing with such allegations and confer powers on the Monitoring Officer of the relevant authorities concerned to carry out investigations. They also make provision for standards committees to reach decisions on allegations and to impose sanctions.

In addition to the new regulations that have been published the Standards Board for England has also published new guidance for local authorities.

Further to the report that went to Full Council on the 28<sup>th</sup> of May 2008 the membership of

the Standards Committee was increased to five borough members, three independent members (one of whom must chair the Committee) and two parish members.

There are potentially three stages in relation to the determination of any complaint. At the first stage a sub-committee will have to meet to decide on the initial assessment of any complaint received (this Sub-Committee will be referred to as the Assessment Sub-Committee). The purpose of the Assessment Sub-Committee hearing will be to decide whether any action should be taken in respect of the complaint.

If the Assessment Sub-Committee decides to take no action they must inform the complainant. The complainant can then call for a review of that decision (this is the potential second stage of any complaint). A Review Sub-Committee will have to be called. None of the members of the Review Sub-Committee will have been members of the Assessment Sub-Committee that considered the original complaint. The Review Sub-Committee will look at the complaint afresh and decide whether the initial decision should be upheld or alternatively whether further action is required.

The third potential stage of the process is a hearing into the complaint that has been made (assuming that an earlier decision has been made to investigate it). The regulations permit a local authority to conduct such hearings through the use of a Sub-Committee. However, at this stage it is proposed that the full Standards Committee should meet to deal with any such hearings.

Members should note that in accordance with the Regulations all meetings of the Standards Committee and any Sub Committees should be chaired by an independent member.

Membership of the sub committees will be determined on an ad hoc basis. The Corporate Director (Policy and Neighbourhoods) has been authorised by Council to put in place appropriate arrangements for convening Standards hearings utilising a pooling principle. Members will be appointed taking account of availability.

Members' attention is specifically drawn to the attached documents.

Firstly the "Interim Procedure for the Initial Assessment of Complaints of Breach of the Code of Conduct" (Appendix 1).

Secondly "Standards Committee – Initial Criteria referral" (Appendix 2).

Members are asked to consider these documents.

The interim procedure document follows closely both the regulations issued by government and the guidance issued by the Standards Board. Likewise the assessment criteria.

The assessment criteria requires further comment. The first section of this document sets out those circumstances where the Assessment Sub-Committee may decide that no action should be taken in respect of the allegation received. It is considered that this is self explanatory. The second section of the document outlines the circumstances in which the Sub-Committee may refer the allegation to the Monitoring Officer for investigation – essentially it is those circumstances where there is a potential breach of the Code of Conduct and the Sub-Committee considers it sufficiently serious to justify the cost of an investigation. The third section deals with those cases where the Standards Committee decide to refer the allegation to the Monitoring Officer for training, conciliation or other steps as appear appropriate to them. The final section details those circumstances where the Standards Committee may decide to refer an allegation to the Standards Board. Essentially this is concerned with cases of exceptional complexity or sensitivity.

It should be stressed that both documents are interim documents – they may be reviewed in due course in the light of experience. A separate procedural note will be prepared in due course outlining how hearings should be dealt with.

Meetings of Standards Sub-Committees to carry out an initial assessment of any complaints received (or to carry out a review of any such decision) will be held in private.

Hearings in front of the Full Committee will generally speaking be held in public.

**WIDER IMPLICATIONS**

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

<b>FINANCIAL</b>	<p>There are no direct financial implications arising from the report. Obviously it is impossible to estimate just how many meetings of Standards Sub-Committees will be required – this will depend entirely on the number of complaints received.</p> <p>It is also of course impossible to estimate how many investigations will prove necessary nor indeed how complicated such investigations could turn out to be.</p>
<b>LEGAL</b>	<p>The Council is under a legal duty to comply with both the Local Government and Public Involvement in Health Act 2007 and the regulations that have been published further to it. Further the Council must also have regard to the guidance that has been published by the Standards Board. Clearly it is imperative that the Council should ensure that a robust standards regime is implemented in order to continue achieve full compliance with all legal duties and obligations</p> <p>In due course the Council will carry out an Equality Impact Assessment on its policies and procedures relating to the standards regime.</p>
<b>RISK</b>	<p>A failure to comply with the requirements of this Act and to deal with Standards issues in an effective way could lead to the Council’s reputation being seriously damaged and tarnished. We must ensure that the public continue to have confidence in the way the Council conducts its business.</p>

<b>OTHER (see below)</b>	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Efficiency Savings</i>	<i>Equality, Diversity and Community Cohesion</i>
<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>
<i>Respect Agenda</i>	<i>Staffing</i>	<i>Sustainability</i>	<i>Training and Development</i>

**BACKGROUND DOCUMENTS**

The Standards Committee (England) Regulations 2008