

REPORT TO	DATE OF MEETING
STANDARDS COMMITTEE	4 SEPTEMBER 2008

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SUBJECT	PORTFOLIO	AUTHOR	ITEM
DRAFT PROCEDURES FOR DEALING WITH COMPLAINTS ABOUT COUNCILLORS	NOT APPLICABLE	DAVID WHELAN	6

SUMMARY AND LINK TO CORPORATE PRIORITIES

As Members are aware the introduction of the new Local Referral regime under the provisions of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) has necessitated a change in our procedures in dealing with complaints about Members.

At Standards Committee on the 26th of June 2008 a new procedure was agreed for dealing with the initial assessment of any complaints received - new criteria for the assessment of any such complaints was also agreed.

This report deals with the subsequent stages of any investigation into any such complaint and any hearing (if this proves to be necessary).

It is considered that the Act will impact on a number of the Corporate priorities – in particular “Efficient, effective and exceptional Council.”

RECOMMENDATION

That subject to the proposed Equality Impact Assessment the Committee agrees the draft procedures to deal with:-

- how an investigation should be carried out (investigations – Appendix 1),
- the steps to be taken in the prehearing stage (pre-hearings – Appendix 2), and
- how the hearing should proceed (hearings – Appendix 3).

DETAILS AND REASONING

As Members have been previously advised 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 8th of May 2008 the vast majority of complaints against members will be dealt with by a local Standards Committee, as opposed to the Standards Board for England. All complaints relating to borough and town/parish councillors in South Ribble are now sent to the Council rather than the Standards Board.

Members will no doubt recall the action that we have already taken in this regard – in particular a new Independent Chairman of Standards Committee has been appointed, the membership of the

Committee has been extended and a new procedural document has been agreed for dealing with the initial assessment of any complaints received.

Members' attention is now drawn to three additional documents which are attached to the report.

Firstly the document headed "Procedure for cases referred to the Monitoring Officer for investigation" (Appendix 1).

Secondly the document headed "Pre-hearing Procedure" (Appendix 2).

Thirdly the document headed "Hearing procedure" (Appendix 3).

These draft procedures have been prepared to comply:

- the 2007 Act
- the Regulations that have been published further to that Act,
- various guidance that has been issued by the Standards Board.

In addition the documents were prepared following discussions with senior legal officers in other councils in Lancashire

It is imperative that the Council and the general public should have confidence with our arrangements for dealing with complaints about members. It is vital that people should not feel deterred from bringing a complaint if they consider that the circumstances warrant it. The Council must ensure that such complaints are investigated thoroughly (this assumes that a Sub-Committee has decided that the complaint warrants such an investigation in the first place). It goes without saying that the Council must also carry out such investigations in a fair and equitable manner – at all times the dictates of natural justice must be adhered to.

The intention behind the draft procedures is to both reassure the public that any such complaints will be investigated in a proper manner and at the same time to reassure any Member complained of that they will have full opportunity to defend themselves.

Members should note that any member complained of will have the right to be represented by a solicitor or barrister should they desire it. Naturally they will know the case against them in advance and will be afforded ample opportunity to prepare for the final hearing. They will be able to call witnesses to support their case. They will also have a right of appeal against any decision to the President of the Adjudication Panel for England based in Harrogate.

At the Standards Committee meeting on the 26 June Members asked for a report to set out the range of sanctions open to it in circumstances where a Member had been found to be in breach of the Code of Conduct. Paragraph 16 of the attached Hearing Procedure (Appendix 3) sets out in full the range of options.

It should be emphasised that these documents will be subject to ongoing review and development in the light of experience.

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.

FINANCIAL	<p>There are no direct financial implications at this stage. Obviously it is impossible to estimate just how many meetings of Standards Sub-Committees will be required - clearly 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>		
LEGAL	<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>An Equality Impact Assessment on the procedures relating to the Standards regime will be completed by the 1st of October 2008 (if not sooner).</p>		
RISK	<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> <p>Best practice is required to meet Use of Resources Assessment criteria.</p>		
OTHER (see below)	<p>Training and Development – There will be an ongoing programme of training designed to ensure that Members are fully informed of the requirements of the new Standards Regime.</p>		
<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