

Agenda Item No:

Report to: Standards Committee

Date of Meeting: 5 June 2008

Report Title: LOCAL ASSESSMENT OF COMPLAINTS ALLEGING BREACH OF THE CODE OF CONDUCT

Report By: Jayne Butters, Borough Solicitor
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Purpose of Report

To approve and make provision for new arrangements and procedures for the local assessment of complaints alleging breach of the code of conduct by members of the Council

Recommendation(s)

1. To approve the arrangements and procedures as set out in Appendix A to the report.
2. To appoint two sub-committees, called the Assessment Sub-committee and the Review Sub-committee, each with an independent chair and two elected members of the Council, to be drawn from from the pool of members of Standards Committee.
3. To delegate authority to the Borough Solicitor and Monitoring Officer to agree any necessary changes to Appendix A in consultation with the Chair of Standards Committee.
4. To recommend to Council to delegate to the Monitoring Officer authority to appoint independent persons to the Standards Committee on a temporary basis in relation to particular complaints, from persons serving as independent members on other authorities' Standards Committees.

Reasons for Recommendations

These changes are required to give effect to the new duties imposed on Standards Committees by the Local Government and Public Involvement in Health Act 2007, concerning the local assessment of complaints.

Background

Local Assessment of Complaints

1. At its meeting in March, Committee was contemplating the implementation of its new responsibilities under the Local Government and Public Involvement in Health Act 2007 but was hampered by the absence of regulations and Standards Board guidance on the detail of requirements. Committee did, however, agree to recommend augmentation of membership of the Committee to 8, including the Independent Members, as it was considered that this would be likely to accommodate any prohibition of the same members considering a review of a decision they had previously made. Council agreed this and has appointed to all seats at Annual Council.

2. The Government has now made the Standards Committee (England) Regulations 2008 (the 2008 Regulations) which came into force on 8 May 2008. The 2008 Regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Each local authority has to develop effective procedures in order to meet its new responsibilities. The Committee must have regard to Standards Board (SBE) Guidance when establishing its procedures. The SBE Guidance was published on 2 May 2008.

3. Owing to the shortness of time allowed for consideration, Monitoring Officers across the England are having to recommend their Committee's arrangements at regrettable speed. Some are more ahead than others, and I am grateful to colleagues at Brighton and Hove City Council for sharing their procedures with me and other colleagues in East Sussex. There are, of course, differences of scale and resources between a city council and a district council and the arrangements and procedures recommended take account of our local position whilst, at the same time, having regard to the SBE Guidance.

4. The 2008 Regulations do not cover joint working between authorities and it is anticipated that the Government will issue more regulations in due course providing a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints regarding member misconduct.

5. The proposed arrangements and procedures are set out in Appendix A. These follow closely the SBE Guidance, which can be seen in full on the Standards Board Website www.standardsboard.gov.uk.

6. It is important that arrangements are agreed and implemented at the earliest opportunity. Should amendment be necessary, Committee is requested to delegate to the Monitoring Officer authority, in consultation with the Chair, to amend detail of the arrangements and procedure.



Independent Members

7. The SBE Guidance suggests that Standards Committees should have at least three independent members. An independent member is required by the Regulations to chair the assessment sub-committee and the review sub-committee. A third independent member is necessary in case of conflict of interest or other reason why an independent member cannot take part.

8. Recruitment of a third independent member has been considered before by Committee but was not favoured. The 2008 Regulations make provision for the appointment of independent members from other authorities, provided that the subject has not been a member or officer of that authority in the preceding 5 years and is not a relative or close friend of a member or officer of that authority. The appointment need not be for a specified term but may be for a particular allegation or set of allegations against a member.

9. This possibility is being explored with colleagues in other East Sussex authorities and Brighton and Hove City Council see it as a way forward for them. This solution to the problem of recruiting suitable independent members is attractive not only from the point of view of joint working but also from the added value of experience gained in other authorities and investigations.

10. Whilst such an appointment appears not to require the approval of the majority of full Council, Council does appoint to Standards Committee. As the instances when such an appointment is necessary tend to be unforeseen, I would want a formal delegation to the Monitoring Officer to appoint an independent member from another authority for the purpose of chairing an assessment or review sub-committee or, indeed, Standards Committee itself where one or both of our independent members could not participate for whatever reason. This should form a recommendation to Council from Committee.

Appointment of Sub-committees

11. The 2008 Regulations require the appointment of sub-committees, to be chaired by an independent member to perform the functions of assessment of allegations of breach of the Code of Conduct and review of decisions made on an assessment. The SBE Guidance refers to these as the Assessment Sub-Committee and the Review Sub-Committee, and it is suggested that these titles be adopted. There have to be at least 3 members present to be quorate, to include an independent chair and at least one elected member of the authority.

12. Whilst some provisions of Part 5A Local Government Act 1972 apply to these sub-committees, it is important to note that the rules on publication of agenda and public access to meetings for the purposes of assessment or review do not apply. This makes the administration of these functions easier.

13. The Assessment and Review Sub-committees are not required to have fixed membership and so it is recommended, in the interests of flexibility and the development of members in the two roles, that the members for meetings of the sub-committees are drawn from the pool of Standards Committee. Currently, Standards



Committee stands at 8 members, to include the independent Chair and Vice-chair. This should provide a sufficient pool to set up sub-committees of an independent chair and two other members. As with Licensing Sub-committees it is suggested that a fourth member is on stand-by in case of unforeseen circumstances, though in the informal meeting context the necessity to re-convene is more easily managed than in a formal meeting setting. The need for an additional independent member has been discussed earlier in the report.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes

Supporting Documents

Appendix A- LOCAL ASSESSMENT OF COMPLAINTS ALLEGING BREACH OF THE MEMBER CODE OF CONDUCT

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