

## X. REPORT TO THE STANDARDS COMMITTEE

### THE ASSESSMENT OF CODE OF CONDUCT COMPLAINTS

REPORT OF: TOM CLARK  
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Wards Affected: All  
Key Decision No

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#### Purpose of the Report

1. To decide on the matters of assessment for Member Code of Conduct complaints in Mid Sussex pursuant to the guidance received from the Standards Board in May 2008 following the issue of the Standards Committee (England) Regulations 2008 which brought into force the local method of dealing with such complaints from the 8<sup>th</sup> May 2008.

#### Recommendations

2. **To discuss appropriate procedure for the assessment of complaints, to conclude such a procedure, to publicise the procedure on the Council's website, to inform Parish and Town Clerks through the email system and to publicise this in leaflets and in the Mid Sussex District Council own newspaper.**

#### Background

3. As members have previously advised, as from the 8<sup>th</sup> May 2008 the District Council's Standards Committee is responsible for assessing whether or not complaints should be investigated for possible breaches of the Members Code of Conduct or whether some other course of action is appropriate.
  - 3.1 It has previously been agreed that these assessment Sub Committees shall be composed of 3 members being 1 Independent (also acting as Chair), 1 Town/Parish Member and 1 District Member. It is envisaged that such Sub Committees will be time tabled to meet monthly to consider any complaints in the previous month.
  - 3.2 The complaints must be in writing. It is suggested that Monitoring Officer should acknowledge these complaints to the complainant but not advise the Member concerned at that point. A summary of the complaint will be prepared for the assessment Sub Committee who will consider whether or not further action needs to be taken. The Sub Committee will prepare a summary of the allegation to be sent to both the complainant and the Member in receipt of the complaint.
  - 3.3. If the Sub Committee decide not to investigate the complaint the complainant has a right of appeal to an appeal Sub Committee which is once again composed of an independent Chairman, District Member and Parish/Town Member but each of these 3 members will be different from the original Assessment Panel.
  - 3.4 If the Sub Committee decide the matter should be investigated they will conclude whether or not it should be referred to the Standards Board for England or whether it should be referred back to the Monitoring Officer for him/her to arrange the investigation. Alternatively the Committee can suggest mediation.

- 3.5 The Committee should have assessment criteria. The following matters should be considered:-
- a) Has the Sub Committee got enough information to make a decision to proceed? If not they should not proceed until further information is received.
  - b) Is the person complained about still a member of the authority? If not they may not wish to proceed or may wish to refer it to another authority where that Member is still in place.
  - c) Has this matter already been investigated?
  - d) Is the matter complained about of historic interest only?
  - e) Is the complaint about a trivial matter?
  - f) Is the complaint motivated by malice, politics or tit for tat?
- 3.5.1 The Appeals Panel has the same powers of referral as the original Sub Committee and such appeals will need to be heard within one month of the original request for an appeal being received.
- 3.6 The Standards Sub-Committee can refer a complaint to the Standards Board for England for investigation; but before taking such a decision it should consider the following points:-
- a) Is the complaint against a leading Member of the authority?
  - b) Would the leading status of the Member make it difficult for the matter to be investigated locally?
  - c) Are there likely to be conflicts of interest between the Member in receipt of the complaint and the Members of the Standard Committee?
  - d) Has the Monitoring Officer or other Officers been closely involved in the matter already or are they bringing the complaint?
  - e) Is the complaint so serious that , if proven, it is likely to result in a disqualification or suspension over and above the powers of the local Standards Committee?
  - f) Is a very substantial investigation required?
  - g) Is the Authority or its Standards Committee dysfunctional?
  - h) Does the matter relate to long term and systematic bullying of officers/other Members?
  - i) Does the complaint raise significant legal issues?
  - j) Does public perception need the matter to be looked at from “outside” in the guise of the Standards Board in Manchester?
  - k) Are there exceptional circumstances?

- 3.7 The Standards Board for England can refer matters back to the Standards Committee if they feel that the matter can be investigated appropriately locally.
- 3.8 The assessment and review hearings are private and the agendas will not therefore be published in accordance with the Local Government Act 1972.
- 3.9 There are some people who regularly make complaints. Authorities should keep a record of complaints received and this may give rise to a pattern and indication that complaints are being made maliciously.
- 3.10 Anonymous complaints will not be dealt with except in very exceptional circumstances.
- 3.11 All Members of the Standards Committee should consider, given their knowledge of the complaint, whether any conflict is likely to arise. If they feel a conflict is likely to arise they should step back from taking part in any part of the process.

#### **Financial Implications and Other Material Implications**

4. It is important that the Assessment Committees weed out those complaints unlikely to be a breach of the Code of Conduct or of a trivial nature that can be dealt with otherwise than by a full investigation. The costs of such of a full investigation in officer time, Standards Committee Member involvement are likely to be a minimum of £3000 for a full hearing rising to many thousands of pounds for a more complex case.

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Background Papers:

Local Government Act 2000 as amended by the Local Government and Public Involvement with Health Act 2007.

The Standards Committee (England) Regulations 2008.

The Local Assessment of Complaints Guidance May 2008.