

ST 70
FOR DECISION
WARD(S): ALL

STANDARDS COMMITTEE

15 September 2008

LOCAL HANDLING OF CODE OF CONDUCT COMPLAINTS

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

Contact Officer: Stephen Whetnall Tel No: 01962 848 220
swhetnall@winchester.gov.uk

RECENT REFERENCES:

Member Briefing Session – 7 July 2008

EXECUTIVE SUMMARY:

The purpose of this report is to approve the criteria for dealing with the assessment of complaints and to clarify the procedure where an investigation report concludes that no breach of the Code has occurred.

RECOMMENDATIONS:

- 1 That the criteria for the assessment of complaints as set out in Appendix 1 to this report be approved.

- 2 That the following descriptions be used for the Standards Sub-Committee to reflect the type and stage of individual case being considered:
 - (a) Standards (Assessment) Sub-Committee
 - (b) Standards (Review) Sub-Committee
 - (c) Standards (Determinations) Sub-Committeewith the appointments to each type of Sub-Committee being made in accordance with Council Procedure Rule 20 (4).

- 3 That Council Procedure Rule 20(4) be approved with the minor amendments set out in the report.
- 4 That, in future, any investigation reports with a finding of no breach of the Code be considered by the Standards (Determinations) Sub Committee, rather than the full Committee, in accordance with the updated guidance from the Standards Board.

STANDARDS COMMITTEE

15 September 2008

LOCAL HANDLING OF CODE OF CONDUCT COMPLAINTS

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

DETAIL:

1 Introduction

- 1.1 Following Regulations made under the Local Government and Public Involvement in Health Act 2007, responsibility for filtering all complaints transferred from the Standards Board to local standards committees. This took place in May 2008.
- 1.2 A training session for Members took place on 7 July 2008. A repeat session will be arranged for Members who were not able to attend.
- 1.3 The Standards Board has issued two sets of statutory guidance. Local Assessment of Complaints (www.standardsboard.gov.uk/Localassessment/Guidanceandtoolkit) and an updated Standards Committee Determinations (www.standardsboard.gov.uk/Localassessment/Guidancetoolkit/Standardscommittees/Determinationsguidanceandtoolkit). The principles were covered in the training and relevant extracts will be included in future reports when individual cases are considered.
- 1.4 In accordance with the Local Assessment Guidance, a notice about the new arrangements was published on the Council's website and in the main reception. Copies were also made available for parish notice boards. The Council's website also includes further information, including guidance and complaints forms – based upon templates provided by the Standards Board. (www.winchester.gov.uk/CouncilAndDemocracy/ElectedRepresentatives/Cod eofConduct) An item about the new arrangements will also be included in the next issue of the Council's newspaper – Perspectives.

2 Assessment Criteria

- 2.1 The Local Assessment Guidance suggests criteria that should be used in the initial filtering process to determine whether a complaint should be investigated. The Guidance says that the Committee should formally adopt its own criteria and include this in the information it provides to potential complainants.
- 2.2 Appendix 1 contains proposed assessment criteria, based on the Guidance.

3 Use of Sub-Committees

- 3.1 The Local Assessment Guidance suggests that the filtering of complaints should be undertaken by smaller sub-committees, rather than the full Standards Committee. The initial assessment would be by an Assessment Sub-Committee. If the complainant was not satisfied with the decision, there would be an opportunity for reconsideration by a Review Sub-Committee, with different membership.
- 3.2 The Standards Committee Determinations Guidance deals with how the investigation report should be handled by the Committee. There are two potential classes of determination to be made:
- (a) a meeting to consider whether an investigation report finding no breach of the Code of Conduct should be accepted – or the matter dealt with in a full hearing.
 - (b) a full hearing and decision upon a case.
- 3.3 The earlier Guidance suggested that cases in (a) above should be dealt with by the full Standards Committee and cases in (b) by a Sub-Committee. The updated Guidance now recommends that both types of case should be dealt with by a Sub-Committee. This is because a smaller body is considered to be more effective for dealing with individual cases. The Guidance suggests that this body should be known as the Consideration and Hearing Sub-Committee. However, a less cumbersome title could be the Determinations Sub-Committee.
- 3.4 The Council's Constitution already contains a procedure for appointing Standards Sub-Committees. This is included in Council Procedure Rule 20 (4) as set out below, but note that the opportunity has been taken to propose minor alterations (shown in track changes) to be more consistent with the new regulations :

'The selection of the Chairman and other Members of the Standards Sub-Committee for individual cases shall be as follows:

- (a) the Chairman should be selected by the Head of Democratic Services in alphabetical rotation from the independent members (subject to availability);
- (b) when the *meeting* is considering a complaint against a City Councillor, membership should consist of the Chairman and two Councillors (from different political parties selected by the Head of Democratic Services in alphabetical rotation from the membership of the Committee);
- (c) when the *meeting* is considering a complaint against a Parish Councillor, membership should consist of the Chairman, Parish Member (selected by the Head of Democratic Services in rotation), and three Councillors (from more than one political party selected

by the Head of Democratic Services in alphabetical rotation from the membership of the Committee).

- (d) no Committee Member should be included in the selection if the complaint is against a Member of the same parish, or district ward, as the Committee Member.'

Any change in the number of Members would need full Council approval. However, the Monitoring Officer has delegated powers to make the minor changes suggested above to reflect the new regulations.

OTHER CONSIDERATIONS:

4 CORPORATE STRATEGY (RELEVANCE TO):

4.1 An Efficient and Effective Council

5 RESOURCE IMPLICATIONS:

5.1 As previously highlighted to Members, local investigations/determinations will need to be carefully monitored, to see if there is a need for additional consultancy support. This may be the case if existing staff have a potential conflict of interest through earlier involvement in the case in question. It could also arise if the volume of work referred to is significant. The base budget is £10,000 per annum and Cabinet approved a further carry forward of £10,000 for 2008/09 to enable further assistance to be obtained if necessary, having regard to the possible additional work through local filtering of complaints.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 – Criteria for the Assessment of Complaints

APPENDIX 1

Criteria for the Assessment of Complaints

The following criteria will be taken into account by the Council's Standards Assessment and Review Sub-Committees in considering whether to investigate complaints that an elected or co-opted member of Winchester City Council or of parish councils within its area may have failed to comply with their respective member codes of conduct.

1. Sufficient information has to be provided with the complaint to enable the Sub-Committee to satisfy itself that the complaint should be referred for investigation or other action. If insufficient information is provided the Sub-Committee will take no further action on the complaint unless further information is received.
2. Where the complaint is about somebody who is no longer a member of Winchester City Council or one of the parishes within its area but is a member of another authority the Sub-Committee will consider whether it wishes to refer the complaint to the monitoring officer of that other authority.
3. Where the complaint has already been the subject of an investigation or other action under the Code of Conduct or other procedures by other regulatory authorities the Sub-Committee will consider whether there is any more to be gained in further action being taken.
4. Where the complaint is the subject of a current investigation the Sub-Committee will not order a separate investigation of the complaint.
5. A complaint should be made as soon as possible after the events that form its subject matter. The Sub-Committee will consider if the complaint is about something that happened so long ago that there would be little benefit in taking action now. However, all complaints will be looked at on their merits.
6. The Sub-Committee will consider the seriousness of the complaint and if it is trivial may decide not to take any further action.
7. The Sub-Committee will also consider whether the complaint appears to be malicious or politically motivated or tit-for-tat. In these circumstances it may well decide that it is insufficiently serious to warrant further action.
