



Ward: All
Key Decision: No

Complaints Assessment Process

Report by the Executive Head of Legal & Democratic Services

1.0 Summary

- 1.1 To agree the process for the assessment and review of complaints about Members breaching the Code of Conduct.
- 1.2 To agree the publicity for the Complaints process.

2.0 Background

- 2.1 The Local Government & Public Involvement in Health Act, 2007 amended the Local Government Act, 2000 so as to provide that complaints against councillors are to be made in writing to the Standards Committee of the Local Authority rather than to the Standards Board for England.
- 2.2 In addition to the Local Government Act, 2000 (as amended) there are The Standards Committee (England) Regulations 2008. The effect of the Act and Regulations are set out below.
- 2.3 The Standards Board has issued guidance, "Local Assessment of Complaints" which the Council must have regard to.
- 2.4 The Standards Committee is required to publicise the complaints process and the address to which complaints should be sent.
- 2.5 Set out in Annex 1 is a proposed notice advising the public of the move to local assessment and determination of complaints.
- 2.6 It is necessary to identify the address to which complaints, in writing, which includes e-mail, are to be sent. It is proposed that complaints are addressed to the Monitoring Officer and sent to the Worthing Town Hall, Chapel Road, Worthing. BN11 1HD, as this is the office building where the Monitoring Officer's office is currently located, or e-mail to a designated e-mail address such as monitoringofficer@adur.gov.uk. This will reduce the possibility of complaints being missed among the many e-mails received daily on other matters.

2.7 Set out in Annex 2 is the proposed process for the Assessment and Review of Complaints.

3.0 Proposals

3.1 That the Committee agree the contact point for complaints is the Monitoring Officer and the address and e-mail address is as set out in paragraph 2.6

3.2 That the committee agree to publicise the new complaints procedure using the document in Annex 1.

3.3 That the committee adopt the procedure set out in Annex 2.

4.0 Legal

4.1 Sections 183 to 195 of The Local Government & Public Involvement in Health Act, 2007, amend the Local Government Act 2000, providing for local assessment, review and determination

4.2 The Standards Committee (England) Regulations 2008 provide the framework for the constitution of Standards Committees, Sub-Committees and the method of determining complaints against Members

5.0 Financial implications

5.1 There are no financial implications from this report however if the complaints are made then costs are likely to be incurred in the investigation(s).

6.0 Recommendation

6.1 That the Committee agree that the contact for complaints is the Monitoring Officer

6.2 That the Committee agree that the address for complaints is the office building where the Monitoring Officer is located, currently Worthing Town Hall, Chapel Road, Worthing. BN11 1HD or e-mail to a designated e-mail address such as monitoringofficer@adur.gov.uk.

6.3 That the committee agree to publicise the new complaints procedure using the document in Annex 1

6.4 That the Committee agree that the procedure for the receipt, assessment and review of complaints is as set out in Annex 2.

Local Government Act 1972

Background Papers:

Local Government Act, 2000

Local Government & Public Involvement in Health Act, 2007

Local Assessment of Complaints – Standards Boards Guidance, 2008

Contact Officer:

Jeremy Cook, Executive Head of Legal & Democratic Services and Monitoring Officer
Town Hall, Worthing

Schedule of other matters

1.0 Council Priority

1.1 This report does not seek to meet any particular council priorities

2.0 Specific Action Plans

2.1 (A) Matter considered and no issues identified
(B) Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified [Details of any sustainability issues, checklist to be completed and submitted to Community Wellbeing]

4.0 Equality Issues

4.1 Matter considered and no issues identified

5.0 Community Safety issues (Section 17)

5.1 Maintaining the good conduct of Members assists in promoting community safety.

6.0 Human Rights Issues

6.1 The provisions of the new regulations and the local determination of complaints will have to comply with Article 6 of the Convention

7.0 Reputation

7.1 The Council is required to be in a position to deal with complaints about Member's conduct. An open and efficient process will improve the reputation of the Council. An inefficient system will be detrimental to the Council's reputation.

8.0 Consultations

8.1 (A) None
8.2 (B) Matter considered and no issues identified

9.0 Risk assessment

9.1 The Council will be in breach of its statutory duty if it fails to establish a sub-committee for the local assessment of complaints and a sub-committee for the review of decisions not to take any action on a complaint.

9.2 The Council will be in breach of its statutory duty if it is not able to have an independent member chairing the sub-committees and committee.

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

12.0 Partnership working

12.1 Matter considered and no issues identified at present, but opportunities may arise for joint working in future.

New role for Adur District Council

Members of the public concerned about councillors' conduct can now make complaints directly to Adur District Council.

Previously, anyone wishing to complain about the conduct of elected members had to report their allegations to the Standards Board for England, who would decide whether or not to investigate. This responsibility has now been taken over by authorities, with the Standards Board's role moving towards one of advice and support.

All councillors have to keep to a Code of Conduct to ensure that they maintain the high ethical standards the public expect from them. If a complainant reveals that a potential breach of this Code has taken place, Adur District Council may refer the allegations for investigation or decide to take other action.

Investigations themselves will also be managed by Adur District Council, except in cases where a conflict of interest or other unusual circumstances mean that it would be more appropriate for the Standards Board to handle.

Once cases have been investigated, the authority's independently-chaired standards committee will decide what action, if any, should be taken against the member. On rare occasions this responsibility will be given to the Adjudication Panel for England, an independent judicial tribunal.

The Standards Board will continue to provide guidance to authority standards committees and will monitor their effectiveness to ensure that results are consistent.

"Handling and investigating complaints at a local level will give Adur District Council the opportunity to take control of its ethical standards and should streamline the process for both the complainant and the member under investigation," said [name]. "Naturally, we expect high standards of behaviour among our elected members, and we shall continue to make every effort to ensure that such standards are maintained. The majority of members will never find themselves subject to an investigation, but for the small number of cases where there is cause for concern, we will aim to deal with the allegations quickly and efficiently."

[Insert brief details on how to make a complaint to your authority]

Complaints, should be submitted, in writing, to the Monitoring Officer, Worthing Town Hall, Chapel Road, Worthing BN11 1HD or e-mailed to monitoringofficer@adur.gov.uk

The complaint should be set out in the complaint form (copies of which can be obtained from www.adur.gov.uk or from the Civic Centre in Shoreham.

Assessment process:

1. Written complaint received by Monitoring Officer (form Annex 3)
2. Monitoring Officer
 - a. to acknowledge receipt of complaint.
 - b. notify subject member that a complaint has been received with name of complainant, unless there is a request for this to be withheld.
 - c. notify Chairman of the Standards Committee
 - d. arrange a meeting of the Assessments Sub-Committee within 20 working days
3. Monitoring Officer to prepare a summary of the complaint, to include:
 - a. is the complaint within the jurisdiction of the sub-committee?
 - b. the relevant paragraphs of the Code of Conduct
 - c. a summary of the key aspects of the complaint if it is lengthy or complex
 - d. any further relevant information:
 - i. declaration of acceptance of office and undertaking to observe the code of conduct
 - ii. minutes of meetings
 - iii. copy of register of interests
 - iv. other relevant documents
4. Assessment Sub-Committee to meet.
 - Stage 1
Sub Committee to consider the following questions:
 - a. is the complaint against one or more named Members of the Council or a Council covered by the Standards Committee?
 - if yes proceed to b
 - if no, no further action
 - b. was the named Member in office at the time of the alleged conduct and was the code of conduct in force at the time?
 - if yes proceed to c
 - if no, no further action.
 - c. if the complaint was proved would it be a breach of the Code of Conduct under which the Member was operating at the time?
 - if yes, proceed to stage 2
 - if no, no further action
 - Stage 2
Sub Committee to consider the following questions:
 - a. Has the complainant submitted enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action?
 - if yes, go to b
 - if no respond to complainant "The information provided was insufficient for the Sub—Committee to make a decision as to whether the complaint should be referred for investigation or other action. So, unless, or until, further information is received, the assessment sub-committee is taking no further action on this complaint." May include details of information required such as date of committee.
 - b. Is the complaint about someone who is no longer a Member of the authority, but is a Member of another authority?

if yes, go to d

if no, go to c

c. Does the sub-committee wish to refer the complaint to the Monitoring Officer of the other authority?

- if yes, respond to the complainant "The Member is no longer a Member of our authority, but is a Member of (name of authority) and the complaint will be referred to the standards committee of that authority.

- if no, respond to the complainant "The Member is no longer a Member of this Council and the sub-committee does not propose to take any further action."

d. Has the complaint already been the subject of an investigation or other action relating to the code of conduct?

- if yes, response to complainant "The matter has already been subject to an investigation in relation to the Code of Conduct and there is nothing to be gained by further action being taken."

- if no, go to e.

e. Has the complaint been subject to investigation by any other regulatory authority?

- if yes, response to complainant "The matter has already been subject to an investigation and there is nothing to be gained by further action being taken."

- if no, go to f.

f. Is the complaint about something that happened so long ago that there would be little benefit in taking action?

- if yes, response to complainant "The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided that under the circumstances that due to the time involved no further action was warranted."

- if no, go to g

g. Is the complaint too trivial to warrant further action?

- if yes, response to complainant "The matter is not considered to be sufficiently serious to warrant further action."

- if no, go to h

h. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

- if yes, response to complainant "The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted."

- if no go to i

i. The complaint appears:

a. to be against one or more current named Member; and

b. it appears to contain an allegation that, if proved, could amount to a breach of the code of conduct; and

c. it has not been refused for any of the reasons set out above

Therefore it should be referred for investigation of further action.

[If the decision has been that no further action should be taken please go to paragraph 10 below]

Stage 3

a. The matter should be referred for investigation unless the sub-committee considers:

- i. that the matter should be referred to the Standards Board for England; or
- ii. that the matter should be referred to the Monitoring Officer for other action.

b. The matter should be referred to the Standards Board for England if:

- i. the status of the Member or the number of Members involved make it difficult for the Standards Committee to deal with the matter.
- ii. the status of the complainant makes it difficult for the Standards committee to deal with the matter
- iii. there is a potential conflict of interest for so many members of the standards committee that it cannot deal with the matter.
- iv. there is a potential conflict of interest of the Monitoring Officer and/ or other officers and that suitable alternative arrangements cannot be made
- v. the case is so serious or complex, or involving so many Members, that it cannot be handled locally
- vi. the complaint will require substantial amounts of evidence beyond that available from the authority's documents officers or Members.
- vii. there is substantial governance dysfunction in the authority or standards committee
- viii. the complaint relates to long-term systemic Member / officer bullying which could be more effectively investigated by someone outside the authority.
- xi. the complaint raised significant unresolved legal issues on which a national ruling would be useful

c. The matter could be referred for other action, following consultation with the monitoring officer, where the breach lends itself to being resolved in another way.

Examples would be:

- i. where a complaint or series of complaints shows that there is or could be a misunderstanding of parts of the code by one or more Members.
- ii. where there appears to be a breakdown in relationships within an authority

5. Investigation to be carried out or other action undertaken.

6. Monitoring Officer to notify parties and inform them who is to be carrying out the investigation. To include summary of allegation.

7. Investigator to report to the assessment Sub-Committee following the investigation.

8. Assessment Sub-Committee to determine:

a. If the report finds no breach of the code, whether or not it accepts that finding:
- if yes, no further action.

written notice to:

the Member,
any ethical standards officer concerned,

the complainant,
the standards committee of any other authority concerned and
any parish council concerned

- if no, refer to the Determination Sub-Committee for a hearing.

b. If report finds a breach of the code, whether to:

- send for a hearing by the Determination Sub-Committee

- refer the matter to the Adjudication Panel for determination

9. Hearing.
10. Where the Assessment Sub-Committee determined to take no further action the parties shall be notified and the complainant shall be notified that they have 30 days in which they can appeal against the decision.
11. If no appeal, matter closed.
12. If an appeal is received it will be acknowledged and the subject Member notified that an appeal has been received.
13. Monitoring Officer will request a meeting of the Review Sub-committee within 20 working days of receipt of appeal.
14. Sub-Committee to receive the same information as the original Assessment Sub-Committee plus any additional information provided by the complainant.
15. Sub-Committee to consider the matter against the same criteria as the Assessment Sub-Committee. Go to paragraph 4.

[Adur District Council Logo]

Complaint of a breach of the Member's Code of Conduct

The Code of Conduct can be found at www.adur.gov.uk

A copy of the code of conduct can be obtained from Democratic Services at either the Civic Centre, Shoreham-by-Sea or the Town Hall, Chapel Road, Worthing BN11 1HD

Please read the Code of Conduct before completing this form as complaints about matters that do not amount to a breach of the code cannot be considered by the Standards Committee

About me:

My name is:

My address is:

I am: (Please delete those that do not apply)

a member of the public

an Adur District Councillor

an officer of the single officer structure serving Adur District Council

other (please specify)

About the complaint:

I am complaining about:

Name :

Council(s) of which they are a councillor:

I am complaining about the above named because:

(Set out details of what you say the Councillor has done, including when where and how you are aware of it)

The following people also witnessed some or all of these events and have / have not told me that they are willing to provide information.

Other information

Nationality

Gender

I understand that my identity will be disclosed to the Councillor I am complaining about.

I do not want my identity disclosed to the Councillor I am complaining about because: