

Meeting:	Standards Committee
Date:	21 September 2009
Subject:	Review of Local Standards Framework Arrangements
Responsible Officer:	Hugh Peart, Director of Legal and Governance Services
Portfolio Holder:	Councillor David Ashton, Leader and Portfolio Holder for Strategy Performance and Finance
Exempt:	No
Enclosures:	None

Section 1 – Summary and Recommendations

This report sets out the current local standards framework arrangements and options for review by the Committee.

Recommendations:

The Committee is requested to consider the current arrangements and:

- (a) Confirm the continued arrangements without amendments; or
- (b) Confirm whether it wishes to change the process and if so how (as set out in Paragraph 2.4); and
- (c) Agree to review the agreed process in a year's time.

Reason: (For recommendation)

To ensure the continued operation of the local standards arrangements framework arrangements.

Section 2 – Report

2.1 Background:

- 2.1.1 At its meeting on 5th of June 2008, this Committee considered and approved the local standards framework process for dealing with complaints against members.
- 2.1.2 In addition to approving the terms of reference of this Committee and of its three Sub-Committees, (Assessment, Review and Hearings) the Committee resolved that “the member complained about should be informed of the complaint as soon as possible after the meeting of The Assessment Sub-Committee.”
- 2.1.3 Overall the arrangements have operated for a year without difficulties. At the meeting of 9th June 2009, members asked for a report to deal with two concerns that they had about the internal process:
- (a) At what stage members who were subject to a complaint were told that there was a complaint about them?
 - (b) How the results of the assessment and review Sub-Committees were communicated to the member who was the subject of the complaint?

2.2 Current Situation

- 2.2.1 A complaint received by the Monitoring Officer that a member may have breached the Code of Conduct is acknowledged within 5 working days. In accordance with approved procedures, at this stage the member is not informed of receipt of the complaint.
- 2.2.2 Arrangements are then made for the preparation of an Assessment Report and a meeting of the Assessment Sub-Committee is convened. This is usually arranged within 20 working days of receipt of the complaint.
- 2.2.3 The meeting of the Sub-Committees is held in private and is not open to the complainant or the member complained about, neither are they legally entitled to be represented at these meetings. Present at the meeting are the three members of the Sub-Committee, the Committee Administrator and Legal Advisor.
- 2.2.4 The decision of the Sub-Committee is communicated to the complainant and the Member as soon as possible after the meeting, and usually within 5 working days. The Chair of the Sub-Committee must sign the decision notice and on occasion this may result in a delay before the notice is sent out.
- 2.2.5 The decision notice is sent by post to the complainant and the Member complained about. The receipt of the decision notice will be the first time that the Member becomes aware that a complaint that they may have breached the Code of Conduct has been made against them.

2.3 Why a change is needed

- 2.3.1 Members who are the subjects of complaints have expressed concerns about the process of not being informed of a complaint until after the meeting of The Assessment Sub-Committee, and that as a result they have been disadvantaged, as they did not have an opportunity to present their case against the complaint.
- 2.3.2 However, in accordance with regulations and guidance from Standards for England, the meetings of the Assessment and Review Sub-Committees are held in private, and neither party is entitled to be present or to be represented at these meetings. If the matter progresses to an investigation, the member will then have an opportunity to present his/her arguments and to be represented if they so wish.
- 2.3.3 Concerns have also been raised as to the manner in which Members are informed of the complaint. As indicated this is usually by way of a formal decision notice, sent either by first class post or via the Members Post Service. In the past some members have been emailed and telephoned prior to the postal communication.
- 2.3.4 As a result of these concerns, this Committee is asked to consider and review the current arrangements.

2.4 Options for Consideration in relation to:

- 2.4.1 How members are told about the decision?

Option 1 - Maintain the status quo or

Option 2 - agree directions for the Monitoring Officer on how the decision notice should be communicated to the Member, whether by:

- (a) Post without any other contact, as in most cases at present;
- (b) An initial telephone call, followed by the decision notice which is sent by the post;
- (c) Email;

- 2.4.2 When members are told about the complaint against them?

Option 1 - Maintain the status quo. Members would not be informed of the complaint until after the meeting of the Assessment Sub-Committee.

Option 2 - Instruct the Monitoring Officer to inform the Member complained about on receipt of the complaint. In this regard, Standards for England (SfE) has provided guidance on how much information could be released to the Member.

- 2.4.3 SfE suggests that some details of the allegations can be disclosed if the "Standards Committee" believes that that disclosure of those

details would not be contrary to the public interest and would not prejudice any investigation. If this procedure is to be followed, the guidance suggests that there should be an agreed policy on notification between the Monitoring Officer and the Standards Committee, for example by way of indicating paragraphs of the Code of Conduct without referring to any facts. The details of the complainant should not be disclosed at this stage.

- 2.4.4 If the Committee considers that it is appropriate to inform the Member at this stage, in accordance with the guidance, the Member must also be informed not to contact anyone involved with the complaint as they or the fairness of the process may be compromised.
- 2.4.5 The member who has been complained about would not be entitled to attend the Assessment Sub-Committee. However once the meeting has been held they would be entitled to the decision notice as they are now.
- 2.4.6 If this option is to be followed, this Committee is asked to instruct the Monitoring Officer (in accordance with SfE Guidance) that on receipt of a complaint against a Member that:
- (a) The Member complained about be informed of receipt of the complaint and the paragraphs that it is considered that the Member may have breached;
 - (b) The Member should not be informed of the name or other details of the complainant(s);
 - (c) The Member should be advised not to contact anyone involved with the complaint as this may compromise their position or the fairness of the process;
 - (d) The Member should only be provided with such information in accordance with SfE's guidance.

2.5 Legal Implications

Part III of the Local Government Act 2000, as amended by the Local Government & Public Involvement in Health Act 2007, places an obligation on the Standards Committee to deal with written allegations that a member or co-opted member may have failed to comply with The Code of Conduct.

2.6 Financial Implications

There are no financial implications associated with this report.

Section 3 - Statutory Officer Clearance

Name:	Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	7 September 2009		
Name:	Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date:	7 September 2009		

Section 4 - Contact Details and Background Papers

Contact: Elaine McEachron, Assistant Lawyer, Corporate Governance –
Telephone 020 8420 9414

Background Papers:

Local Government Act 2000
Local Government and Public Involvement in Health Act 2007
Standards for England Guidance – Local Standards Framework