

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS COMMITTEE

15th DECEMBER 2009

Review of Local Determination of Complaints/Progress on the Local Government and Public Involvement in Health Act 2008

OPEN	
RESPONSIBLE OFFICER:	Monitoring Officer
CONTACT OFFICER:	Mrs C S Newlands Ext. 2715
APPENDICES	None

1. PURPOSE OF REPORT

- 1.1. To give feedback to the Ethics and Standards Committee on the local determination of complaints following the first meeting of the Council's Assessment Sub-Committee.
- 1.2. To review the arrangements and if necessary to make changes as appropriate.

2. RECOMMENDATION

- 2.1. **The outcome of the recent Assessment Sub-Committee meeting be noted.**
- 2.2. **To consider whether any changes/amendments to the Council's processes as necessary.**

3. BACKGROUND

- 3.1. On 8th May 2008, through legislation contained within the Local Government and Public Involvement in health Act and the The Standards Committee (England) Regulations 2008 became responsible for the assessment of all allegations that a member of their authority/Parish Council or Town Council may have breached the Code of Conduct. It also gave them responsibility for any subsequent investigations, decisions and sanctions (except where the cases could not be handled locally due to their seriousness, conflicts of interest or other public interest reasons).
- 3.2. Complaints are considered under the following processes:
 1. Reports will be submitted in writing to the Monitoring Officer who will clarify any points on behalf of the Committee.
 2. The Assessment Sub-Committee meets in closed session to consider the complaint. The Sub-Committee is chaired by an Independent Member and comprises 3 Members (including a

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Parish or Town Council Member (if the complaint refers to a Parish or Town Councillor).to decide whether the complaint should be investigated.

3. If the Assessment Sub-Committee decides that there has been a breach of the Code of Conduct and the complaint should be investigated it is referred to the Hearing Sub-Committee for determination.
4. If the Assessment Sub-Committee decides that there should be no further investigation a review of the decision can be requested by the complainant(s) and this will be heard by the Review Sub-Committee.

4. **KEY ISSUES**

- 4.1. During the summer a number of complaints were received alleging that a Member of Wyre Forest District Council had breached the Members' Code of Conduct.
- 4.2. In accordance with the Council's procedures, a meeting of the Assessment Sub-Committee was convened.
- 4.3. The Assessment Sub-Committee comprised Reverend Cox (Independent Chairman) and Councillors Mrs H E Dyke, C D Nicholls and K J Stokes.
- 4.4. The Assessment Sub-Committee considered the complaints using the Council's assessment criteria.
- 4.5. The Assessment Sub-Committee met in exempt session and a number of options were available to them:
 - Referral of the complaint to the monitoring officer of the authority for further information or Other Action.
 - Referral to the Hearings Sub-Committee to determine the complaint.
 - Referral of the complaint to the Standards Board for England.
 - To decide that no action should be take in respect of the complaint. (In which case the Committee shall direct the Monitoring Officer to give written notice of that decision and the reasons for it to the complainant and no further action shall be taken unless a complainant requests pursuant to Section 57B of the local Government Act 2000, that the Committee review that decision. (This must be done within three months of receipt of the request to review).

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- 4.6. The complaints were considered in detail and a decision to take no further action was reached as the Member's conduct in their private life was not covered by the Code of Conduct.
- 4.7. The Monitoring Officer gave written notice of that decision and the reasons for it to the complainants and the Member concerned. (A public inspection copy of the decision is available for inspection on request).
- 4.8. In Autumn 2009 the Code of Conduct is due to be updated to include conduct of Members in their private life. It is possible that there may be more complaints as a result of this revision to the Code. However, when the new legislation becomes statute it will not be possible to retrospectively apply it.

5. FINANCIAL IMPLICATIONS

- 5.1. The new local determination arrangements have Member and Officer resource implications. Whilst it is acknowledged that during the first year of determining complaints locally we have only had one complaint that has been referred to the Assessment Sub-Committee, it is possible that the number of referrals could potentially vary considerably from year to year and might impact on the budget allowed for determinations.
- 5.2. The Monitoring Officer will continue to closely monitor the situation and put forward budgetary recommendations as necessary.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1. The new local assessment regime has been brought into effect under the provisions of the local Government and Public Involvement in Health Act 2007 and the Standards Board (England) Regulations 2008 and associated guidance from the Standards Board for England.

7. RISK MANAGEMENT

- 7.1. Failure to determine complaints in accordance with relevant legislation is would incur intervention by the Standards Board for England as it would consider the Ethics and Standards Committee as being unable to discharge its functions appropriately.

8. CONCLUSION

The Council's arrangements with regard to the local determination of complaints appear to be working well. However, it is not possible to predict how many complaints will be received and thus the amount of work generated is likely to fluctuate. It is possible that there may be additional work for the sub-committees when a Member's conduct in their private life becomes part of the Code of Conduct which the Standards Board for England is proposing to introduce in autumn 2009.

9. CONSULTEES

- 9.1. Chair and Vice-Chair of Ethics and Standards Committee and Cabinet Member for Legal and Corporate Services.

10. BACKGROUND PAPERS

- 10.1. Report to Ethics and Standards Committee – Breach of Code of Conduct 28th July 2009.
10.1. Local Government and Public Involvement in Health Act
10.2 The Standards Committee (England) Regulations 2008