



Members Complaints Procedure – Update and Evaluation

SUMMARY

- 1.1 To outline the key issues following the implementation of the Members Complaints Procedure from May 2008 and proposed minor amendments to it.

RECOMMENDATION

- 2.1 To note the information set out in the report and approve the minor amendments to the procedure.

SUPPORTING INFORMATION

- 3.1 From the 8 May 2008 changes in the law meant that all complaints about the behaviour of local Councillors should be made directly to the Council's Standards Committee instead of the Standards Board for England. At its meeting on 14 July the Standards Committee approved a Members Complaints Procedure and the establishment of two sub committees dealing with the assessment of complaints and the review of these assessments. The Procedure and the establishment of the two sub committees were endorsed by Full Council at its meeting on 16 July.
- 3.2 The procedure sets out the role of these two sub committees which is outlined below:
- Assessment Sub Committee to carry out initial assessments of complaints about alleged breaches of the Members' Code of Conduct.
(comprising of two independent members and a Councillor member)
 - Review Sub Committee to review decisions of the Assessment Sub Committee to take no action in relation to a complaint should the complainant request this.
(comprising of one independent member as chair and two Councillor members)

- 3.3 Since the changes in the law the Council has received three complaints regarding Councillors set out as follows:

Complaint 01/2008

Letter of complaint received 14 July with acknowledgement letter sent on 15 July asking complainant to clarify the parts of the Code of Conduct allegedly breached. On 30 July the complainant responded.

The Assessment Sub Committee met on 2 September and determined that no action be taken on the allegation. The complainant and subject member were advised of this by way of decision notice on 9 September. The complainant had a right to request that the decision of the Assessment Sub Committee be reviewed however any such request had to be submitted in writing by 9 October. No such request was made.

Complaint 02/2008

Letter of complaint received 14 July with acknowledgement letter sent on 15 July asking complainant to clarify the parts of the Code of Conduct allegedly breached. A further letter was sent to the complainant on 19 August as no response was provided. This second letter again sought clarification of the parts of Code of Conduct it was alleged had been breached. On 27 August the complainant responded.

The Assessment Sub Committee met on 2 September and determined that no action be taken on the allegation. The complainant and subject member were advised of this by way of decision notice on 9 September. The complainant had a right to request the decision of the Assessment Sub Committee be reviewed and had to do so in writing by 9 October. Such a request was received on 18 September and subsequently the Review Sub Committee met on 17 October. At the time of writing this report the Sub Committee had not yet met and therefore its decision will be reported verbally to the Standards Committee.

Complaint 03/2008

Letter of complaint received on 4 August with acknowledgement letter sent on 5 August asking complainant to clarify the parts of the Code of Conduct allegedly breached. On 27 August the complainant responded.

The Assessment Sub Committee met on 2 September and determined that the matter be referred to the Monitoring Officer for investigation. The complainant and subject member were advised of this by way of decision notice on 9 September. Claire Lefort, Local Government and Police Team, Weightmans Limited Liability Partnership has been commissioned to undertake the investigation. When complete its findings will be considered at a future meeting of the Standards Committee in line with appendix 5 of the Members' Complaints Procedure. It is envisaged that the investigation will be concluded by December 2008.

The complainant and the subject member have been notified of the investigator and the anticipated timescale for the investigation

- 3.4 Details of the complaints received and the action taken since the 8 May have been provided to the Standards Board for England by way of the quarterly case handling return. This return outlines factual data only and does not name the complainant, the subject member or any of the Sub Committee members.
- 3.5 Having successfully undertaken a practical application of the Members Complaints Procedure, by dealing with three complaints about Councillors, the following changes to it are suggested. It is envisaged that these amendments will help to strengthen the procedure and remove any ambiguity. For reference a copy of the procedure is attached as appendix A.

Revised paragraph 17 (page 5)

'Having received the complaint the MO will, as soon as reasonably practical, inform the subject member that a complaint has been made about them. The information about the complaint that can be provided to the subject member by the MO is limited, as only the SC have the power to give a written summary of the allegation to the subject member.'

When informing the subject member that a complaint has been made about them the MO will make an assessment of the potential risks to the investigation. If the MO determines that the risk of the case being prejudiced by the subject member being informed that a complaint has been made outweighs the fairness of notifying the subject member, the subject member will not be informed.

Revised paragraph 27 (page 6)

*If the ASC decides to take no action about a complaint they must inform the complainant and the subject member accordingly within **five working days** of coming to that decision. Then the complainant has a right of review over a decision to take no further action. The complainant should make their request for a review of the ASC's decision to the SC in writing stating their reasons for requesting a review of the assessment. This review request must be made in writing, which includes fax and electronic submissions. This requirement must however be read in conjunction with the Disability Discrimination Act 2000 and the requirement to make reasonable adjustments.*

*Any request by a complaint for a review of the ASC's decision must be submitted in writing within **30 calendar days** from the date of the initial assessment notice. If a request is submitted outside this timescale it will not be considered.*

Revised paragraph 29 (page 7)

If the SC receives a request for a review the MO will notify the subject member that such a request has been received. If the MO has previously made a decision not to notify the subject member of the initial complaint following an assessment of the potential risks to the investigation then the subject member will not be notified of the request for a review.

Revised paragraph 30 (page 7)

*If a review is requested by the complainant then the RSC must carry out the review within a **maximum of three months** of receiving the request. The RSC should aim to undertaking the review within the same timescale as the initial assessment decision was taken, aiming to complete the review within an average of 20 working days.*

Revised paragraph 53 (page 9)

After the ASC or RSC has considered a complaint they must produce a written summary which must include:

- *The main points considered*
- *The conclusions on the complaint*
- *The reasons for the conclusion*

The decision notice will act as the required written summary. This will include the name of the subject member unless the MO determines that doing so would not be in the public interest or would prejudice any subsequent investigation.

Revised paragraph 54 (page 9)

Once the subject member has been sent the decision notice it will available for the public to inspect at the Council's offices for six years.

- 3.6 It is anticipated the suggested amendments outlined will address issues identified with the procedure following its practical application. However as time progresses it may be appropriate to make further minor changes learning from experience. If this is the case any such amendments would be referred to the Standards Committee for consideration and approval.

For more information contact:	Name 01332 25 5466 e-mail daniel.swaine@derby.gov.uk
Background papers:	Members Complaints Procedure – Derby City Council Standards Board for England – Local Standards Framework
List of appendices:	Appendix A - Members Complaints Procedure – Derby City Council

IMPLICATIONS

Financial

- 1.1 None directly from this report, but referrals for investigation do carry cost implications for the Council particularly the use of external sources.

Legal

- 2.1 None directly from this report but it is essential complaints are dealt with properly in line with the Standards Board for England Local Assessment Framework.

Personnel

- 3.1 None directly from this report.

Equalities Impact

- 4.1 None directly from the report.

Corporate objectives and priorities for change

- 5.1 Delivery of an effective process for dealing with complaints about Councillors is consistent with deliver of the corporate priority 'Giving you excellent services and value for money'.