

STANDARDS COMMITTEE

PROCEDURE FOR CONSIDERING ALLEGATIONS OF BREACH OF THE COUNCIL'S PROTOCOLS

19th June 2008

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider the procedure to be followed for dealing with allegations that a Member has failed to comply with one of the Council's Protocols.

This report is public

RECOMMENDATIONS

- (1) That the Committee consider the procedure to be followed for dealing with allegations that a Member has failed to comply with one of the Council's Protocols, and for the time being maintain the current procedure of investigation by the Monitoring Officer, with the Monitoring Officer's report then being considered in accordance with the investigation, pre-hearing and hearing procedures.

1.0 Introduction

- 1.1 The Council has a number of Protocols which supplement the Code of Conduct. These are the Protocol on Planning, the Protocol on Member/Officer Relations and the Protocol on Publicity for Allegations of breach of the Code of Conduct (referred to elsewhere in this agenda).
- 1.2 The Terms of Reference of the Committee include dealing with allegations of breach of the Protocols. However, the Protocols do not form part of the Code of Conduct, and any breach does not therefore constitute a breach of the Code of Conduct. The provisions of the Local Government Act 2000 (as amended) and the Standards Committee (England) Regulations 2008 do not apply to complaints relating to the Protocols, and the sanctions of the Committee in the event of a finding of breach of Protocol would be limited to the "naming and shaming" of the member, or the offering of advice to the member. It would also be open to the Committee to suggest more general changes to working practices to prevent such a problem or complaint arising in the future.
- 1.3 Whilst the Protocols are included in the Council's Constitution, they are generally for internal use only, and it is anticipated that any allegation of breach would be made by

another Member of the Council rather than by a member of the public. Over the past few years, only one formal complaint of breach of Protocol has been received.

- 1.4 At its meeting on the 23rd February 2007, the Committee resolved that its procedure for considering reports on investigations relating to alleged breaches of Protocol be similar to the statutory procedure for considering reports on investigations initiated by the Standards Board. That decision needs to be reviewed in the light of the new arrangements for Code of Conduct complaints.

2.0 Proposal Details

- 2.1 The decision of the 23rd February 2007 presupposed that all complaints of alleged breach of Protocol would be investigated by the Monitoring Officer. It would be possible to continue on this basis, with any complaint received being investigated by the Monitoring Officer, and her report then being referred to the Standards Committee (or a Sub-Committee) in accordance with the investigation, pre-hearing and hearing procedures adopted by the Committee for Code of Conduct complaints.
- 2.2 However, this would mean that there would be no filtering process for breach of Protocol complaints as there is for Code of Conduct complaints. The consequence would be that all breach of Protocol complaints would be investigated. The Committee might wish to introduce a filtering process, along the lines of the assessment process for Code of Conduct complaints. However, this could not be the same process, as the options available on assessment would not be the same, and the ordinary access to information rules would apply to any assessment sub-committee dealing with Protocol breaches.
- 2.3 The Monitoring Officer would recommend that, in view of the infrequency of Protocol complaints to date, it would be simpler and preferable for the time being to continue as at present, with the Monitoring Officer investigating any complaint, and the report then being considered in accordance with the investigation, pre-hearing and hearing procedures. To have a parallel, but inevitably different, assessment process for Protocol complaints would appear to be unnecessarily bureaucratic and complicated, especially at this early stage when we have no experience of how the statutory assessment filter will work in practice. The position could then be reviewed in the future

3.0 Consultation

- 3.1 The Monitoring Officer has consulted other Monitoring Officers on how they intend to deal with breaches of Protocol. It would appear that many authorities do not have protocols or have never had occasion to consider allegations of breach of Protocol, and they do not therefore see this as an issue for them. The few that have considered the issue are intending not to apply any assessment/filter process to Protocol complaints.

4.0 Options

- 4.1 The options open to the Committee are as set out in paragraphs 2.1 and 2.2 above. The Monitoring Officer would recommend for the time being the option set out in 2.1.

5.0 Conclusion

- 5.1 The Committee's views are sought.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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