



Committee: STANDARDS COMMITTEE
Date: FRIDAY, 23 MAY 2008
Venue: CITY LAB, DALTON SQUARE, LANCASTER
Time: 10.00 A.M.

A G E N D A

1. **Appointment of Chairman for the Municipal Year 2008/09**

Please note that the Chairman has been re-appointed by Council for 3 years from May 2008.

2. **Appointment of Vice-Chairman for Municipal Year 2008/09**

Please note that this appointment can only be undertaken by an Independent Member.

3. **Apologies for Absence**

4. **Minutes**

Minutes of meeting held on 24th January 2008 (previously circulated).

5. **Items of Urgent Business authorised by the Chairman**

6. **Declarations of Interest**

7. **Training of Parish Councillors** (Pages 1 - 2)

Report of the Monitoring Officer

8. **Registration of Interests** (Pages 3 - 4)

Report of the Monitoring Officer

9. **Local Assessment of Complaints** (Pages 5 - 51)

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors

Councillors Jon Barry, Shirley Burns, Sheila Denwood, Sarah Fishwick, Janie Kirkman,

Roger Sherlock and Joyce Taylor

Voting Co-optees

Stephen Lamley (Chairman)
Margaret Davey, Paul Gardner, Tony James, David Jordison, Sue McIntyre,
Susan O'Brien and Frank Senior

(ii) Substitute Membership

Councillors

Councillors Keith Budden, Roger Dennison, John Gilbert, Ron Sands and Jude Towers

(iii) Queries regarding this Agenda

Please contact Suzanne Smith, Democratic Services - telephone (01524) 582074 or email smsmith@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER LA1 1PJ

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STANDARDS COMMITTEE**TRAINING FOR PARISH COUNCILLORS
23rd MAY 2008****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider what further training, if any, should be offered to parish councillors.

This report is public

RECOMMENDATIONS

- (1) Members' views are sought as to what further training, if any, should be offered to parish councillors.**

1.0 Introduction

- 1.1 At its meeting on the 13th September 2007, the Committee considered the training sessions on the Code of Conduct that had been provided for city and parish councillors between May and September 2007. The Committee resolved that the issue of training for Parish Councils be considered at the meeting of the Committee scheduled for 10th April 2008. In fact, that meeting was cancelled, and the matter is therefore being raised at this meeting.

2.0 Proposal Details

- 2.1 One of the reasons for the Committee's resolution in September was that there was not a parish council representative present at the meeting. Members felt that it would be useful to have a parish perspective on the question of training, and felt that it would be helpful to know from the parish representatives on the Committee what training would be useful for parish councillors and their clerks.
- 2.2 The views of Members, and particularly the parish representatives are therefore sought. On the basis of the comments made at the meeting, the Monitoring Officer will endeavour to arrange any training that may be recommended by the Committee.

CONCLUSION OF IMPACT ASSESSMENT

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

None arising from this report.

FINANCIAL IMPLICATIONS

Financial Services have been consulted. It is likely that any training would be carried out by the Monitoring Officer, and could therefore be met from existing staff resources, with no financial implications. If a need for external training was identified, further consideration would need to be given to the likely cost and whether it could be met from existing budgets.

SECTION 151 OFFICER'S COMMENTS

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

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 Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

STANDARDS COMMITTEE**REGISTRATION OF INTERESTS
23rd MAY 2008****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of the continuing monitoring of the registration of personal interests by City and Parish Councillors.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Introduction

1.1 Members may recall that at its meeting on the 13th September 2007, the Committee considered a report from the Monitoring Officer on the progress that had been made in ensuring that all city and parish councillors registered their personal interests as required by the Code of Conduct, and were mindful of the need to register any changes within twenty eight days.

2.0 Proposal Details

2.1 The Monitoring Officer reported in September that it was intended that at the start of each municipal year in May, a letter would be sent to all Members of the City Council reminding them of the need to register any changes. It was intended that this letter would require a response from each Member, either a declaration to the effect that there has been no change, or the return of a completed "change" form.

2.2 It is intended that these letters will be sent to Members of the City Council around the time of the Annual Council meeting, requesting a reply by the middle of June. This will enable the Monitoring Officer, and indeed this Committee, to be confident that Members have properly considered their registration of interests.

2.3 With regard to the parish councils, by virtue of the very number of councillors and the frequency of resignations and co-options, it has been extremely difficult for the Monitoring Officer to ensure that the register contains a registration form completed by each and every parish councillor. A checking process has been ongoing over the last few months, and at the time of writing this report, there are four parish councillors

whose registration forms appear to be outstanding. The Monitoring Officer has been in contact with each of these individually.

2.4 In order to ensure that the registrations of parish councillors are kept up to date, the Monitoring Officer has written to the clerks of all the parish councils within the district, requesting them to draw to the attention of their councillors the requirement to register any changes to their personal interests, and enclosing copies of the change form. The letter also asked the clerks to draw to the attention of their councillors the fact that their home address was likely to be required to be registered in the section of the form relating to beneficial interest in land within the parish. The Monitoring Officer has noted that very many parish councillors have entered a nil return in this section, and feels that it is likely that many may have done so in error.

2.5 It is hoped that these actions will ensure that city and parish councillors maintain accurate register entries of their personal interests.

3.0 Conclusion

3.1 The Committee is asked to note the report.

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

Registration of personal interests is a requirement of the Members' Code of Conduct.

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

Contact Officer: Mrs S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

STANDARDS COMMITTEE**LOCAL ASSESSMENT OF COMPLAINTS
23rd MAY 2008****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of Regulations that have been made to deal with the local assessment of complaints under the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007, and guidance issued by the Standards Board for England, and to enable the Committee to consider its procedures and criteria for the local assessment of complaints.

This report is public

RECOMMENDATIONS

- (1) That the Guidance from the Standards Board be noted and adopted.
- (2) That the Committee consider its arrangements for publicising the new arrangements.
- (3) That the Committee authorise the Monitoring Officer, in consultation with the Chairman to finalise the format of the complaints form.
- (4) That the Committee's Assessment Procedure and Assessment Criteria be considered for approval, and in particular that the Committee consider whether or not it wishes the Monitoring Officer to notify a subject member of a complaint prior to the meeting of the Assessment Sub-Committee, and whether the Review Sub-Committee should consider a complaint afresh, substituting its own view for that of the Assessment Sub-Committee
- (5) That the Head of Democratic Services or her representative be authorised to convene ad hoc Assessment and Review Sub-committees, each of three members, on the principles as set out in the draft Procedure, to deal with the initial assessment of allegations and subsequent requests for review.
- (6) That at its next meeting the Committee review its Hearing Procedures and consider whether it is appropriate to introduce a new Protocol to replace the superseded "Protocol on Publicity for and Notification of Allegations of Breach of Code of Conduct made to the Standards Board"

1.0 Introduction

- 1.1 The Local Government and Public Involvement in Health Act 2007 made amendments to the provisions of the Local Government Act 2000 relating to the conduct of local authority members, and in particular the arrangements for dealing with allegations of breach of the Code of Conduct. Under the 2007 Act, a written allegation of failure to comply with the Code of Conduct is to be made to the Standards Committee, rather than to the Standards Board for England as previously. The Standards Committee must refer the allegation to the Monitoring Officer or to the Standards Board, or decide that no action should be taken in respect of the allegation. Where there is a decision to take no action, the complainant has a right to request a review of this decision.
- 1.2 Whilst the 2007 Act sets out the general framework of the new arrangements, the detail is set out in the Standards Committee (England) Regulations 2008, which were laid before Parliament on the 17th April 2008, and came into force on the 8th May 2008. The Regulations implemented the new regime with effect from the 8th May 2008. The Regulations themselves require local authorities to have regard, in a number of areas, to guidance issued by the Standards Board. Such guidance was issued on the 2nd May 2008, and a copy is appended to this report for Members' information.
- 1.3 There are a number of issues, arising from the Regulations and guidance, on which the Committee is required to make decisions or establish procedures, and these are set out below.

2.0 Proposal Details

Publicity

- 2.1 The Standards Committee is required to publish details of the address to which allegations of failure to comply with the Code of Conduct are to be sent. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints. The Standards Board has issued a template notice, and their guidance provides that the complaints system may be published through an authority's website, advertising in one or more local newspapers or an authority's own newspaper or circular, or notices in public areas such as local libraries or authority reception areas. It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary. In view of the fact that the new regime was implemented on the 8th May, the Monitoring Officer arranged for the template notice to be placed on the Council's website from the 6th May. The address given for complaints was The Standards Committee, c/o Mrs Sarah Taylor Monitoring Officer, Town Hall, Lancaster LA1 1PJ.
- 2.2 The notice will remain on the website, and notices can be placed in Council reception areas and in the public libraries. Unfortunately the timing of the Regulations and guidance meant that it was not possible to publish a notice in the June edition of the Council's newspaper "Your District Council Matters", although preliminary information on the new regime was included in the February edition. The next edition will not be published until October. The cost of a public notice in the local newspapers would be in the region of £600, and it is questionable how many people read public notices. The Committee is asked to consider how it would wish to publicise the new arrangements.

Complaints Forms and Procedures

- 2.3 The guidance suggests that there are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct. Authorities may choose to integrate the making of Code complaints into the existing complaints framework, so that when a complaint is received it can be analysed to decide which of the complaints processes is most appropriate, and the authority can then advise the complainant accordingly. Alternatively, authorities may choose to develop a separate process for Code complaints so that the process is distinct from other complaints.
- 2.4 The Monitoring Officer's preference would be to develop a separate process. The Standards Board has developed a template complaints form, which can be completed online, and the Monitoring Officer considers that it would be preferable to use this form which is for Conduct complaints only. This means that the Monitoring Officer will receive such complaints promptly and be able to ensure that the prescribed timescales are met. As the Council may be receiving complaints about parish councillors, it would not be appropriate for these to be received as part of the Council's general complaints procedure. That is not to say that the two procedures will not be integrated. Complaints officers throughout the Council have already been alerted to the need to advise the Monitoring Officer if they receive a complaint which appears to include a Conduct complaint. Some complaints may inevitably need to be considered through more than one of the Council's complaints processes.
- 2.5 A copy of the complaints form, based on the Standards Board's template is appended to this report for the Committee's approval. The Committee may wish to authorise the Monitoring Officer, in consultation with the Chairman, to finalise the form.

Assessment Procedures and Criteria

- 2.6 The Committee is also required to publish details of the procedures it will follow in relation to any written allegation received. In complying with these requirements, the Committee must take account of the guidance issued by the Standards Board. The Monitoring Officer has prepared for the Committee's consideration the draft Assessment Procedure which is appended to this report. This follows the Standards Board guidance, and the Committee is asked to approve the document either with or without amendment. It is anticipated that the Procedure, together with the Assessment Criteria will then be published on the Council's website, and that copies will be kept at Customer Service Receptions and provided on request. Copies will also be provided whenever a complaint form is requested.
- 2.7 There are a number of issues contained in the draft procedure that require the Committee's specific consideration, and these are set out below.
- 2.8 The Regulations require the Committee to appoint sub-committees to deal with the initial assessment of allegations of breach of the Code of Conduct, and with any subsequent request for review of the initial assessment. Such Assessment and Review sub-committees must be chaired by an independent member, and no member who has taken part in the initial assessment of an allegation may participate in a review in respect of that allegation. A sub-committee shall not be quorate unless at least three members are present. One member of the City Council must always be present, and, if the allegation relates to a parish councillor, a parish representative must also be present. The Regulations do not prescribe the size of the sub-committees. Members may feel that three is the appropriate size, and indeed it

seems that the Standards Board envisages that that would be the case. However, if any Member did not attend, the meeting would be inquorate and unable to proceed. Rather than establishing fixed sub-committees with named members, it is recommended that the Committee authorise the Head of Democratic Services or her representative to convene ad hoc sub-committees of three, to include an independent member as chairman, and one city councillor, and, where the complaint relates to a parish council, one parish representative. Advice is being sought from the Standards Board as to whether or not it is good practice to include a parish member for a city council complaint. The sub-committees would be convened so far as possible on a rotational basis, giving all members of the Committee in turn an opportunity to participate, but based on the availability of members, and based also on the principle that so far as possible where an allegation is made by and/or relates to a city councillor, the city councillor on the sub-committee is not of the same Group as the subject of and/or the maker of the complaint.

- 2.9 An Assessment or Review Sub-committee meeting is not required to be open to the public, and the normal rules about publication of agendas and minutes do not apply. However, the sub-committee must produce a summary of its consideration, which must be prepared having regard to guidance issued by the Standards Board. The summary will be open to public inspection for a period of six years.
- 2.10 The issue of whether or not a subject member should be notified of a complaint before the Assessment Sub-Committee meets is a difficult one. The Regulations are far from clear on this. The guidance states that the Monitoring Officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. The notification could say that a complaint has been made, and state the name of the complainant (unless the complainant has requested confidentiality – a request that would be considered by the Assessment Sub-Committee), the relevant paragraphs of the Code that may have been breached and the date of the Assessment Sub-Committee meeting. A written summary of the allegation can only be provided to a subject member once the Assessment Sub-Committee has met. Because of this, and the fact that the Assessment Sub-Committee meeting is held in private, there seems to the Monitoring Officer to be little to be gained from telling the subject member about the existence of the complaint at that stage, and indeed it seems that this would only cause anxiety to the subject member. However, the Committee's views on this are sought, and will be incorporated in the Procedure document.
- 2.11 It should also be noted at this stage that the Council's existing "Protocol on Publicity for and Notification of Allegations of Breach of Code of Conduct made to the Standards Board" have been superseded by the implementation of the new arrangements, and it may be appropriate at a later stage to consider whether any replacement protocol is necessary.
- 2.12 When an Assessment Sub-Committee considers an allegation, it may refer the allegation to the Monitoring Officer, refer the allegation to the Standards Board, or decide that no action should be taken in respect of the allegation. In referring an allegation to the Monitoring Officer, this may be for investigation, or with a direction to take other steps. These steps are arranging for the member who is the subject of the allegation to attend a training course, arranging for the member and the complainant to engage in a process of conciliation or such other steps (apart from investigation) as appear appropriate to the sub-committee. The Standards Board has advised that Standards Committees should establish criteria for the assessment process, and a draft for the Committee's consideration is appended to the draft Assessment Procedure .

- 2.13 When an Assessment Sub-Committee decides that no action should be taken in respect of an allegation, the person who made the complaint may make a request for that decision to be reviewed, and this request must be considered by a differently constituted sub-committee. The legislation does not indicate whether the review should be by way of re-consideration, with the sub-committee considering the allegation afresh and substituting its own decision for that of the Assessment Sub-Committee, or whether it should only change the previous decision if it was unreasonable in law or the correct procedures were not followed or if the complainant has provided compelling new information in their review request. The guidance from the Standards Board states that the Review Sub-Committee should apply the same criteria used for initial assessment. This suggests that the Sub-Committee is in effect considering the matter afresh, and the Monitoring Officer would suggest that this might be a simpler approach to adopt, rather than confining the review to the more difficult concept of whether the decision of the Assessment Sub-Committee was unreasonable in law. However, the Committee's views are sought on this, for inclusion in the Procedure. Further advice is being sought from the Standards Board as to what is intended.

Investigations and Hearings

- 2.14 As Members will be aware, the Committee already has in place procedures in respect of investigations and hearings. If a complaint is referred by the Assessment Sub-Committee for investigation, the procedure for the investigation and hearing is largely unchanged by the new Regulations. However, the Monitoring Officer will review the existing procedures against the new Regulations, and report to the next meeting of the Committee on any changes that may be necessary. At this stage, however, it was felt more important to have the assessment and review procedure in place.
- 2.15 With regard to hearings, one issue that the Committee may wish to consider is the size of the hearing sub-committee. At present it comprises five members of the Committee, and members may wish to consider whether to maintain this number, or whether the Assessment, Review and Hearing Sub-Committees should all be of the same size.

3.0 Details of Consultation

- 3.1 The report has been prepared by the Monitoring Officer on the basis of the Standards Committee guidance. Advice has also been sought from the Standards Board on specific issues. On the 22nd May 2008 the Monitoring Officer will be attending a meeting of Lancashire Monitoring Officers to discuss how they are approaching the Assessment Procedures and Criteria, and any information from that discussion will be reported orally at the meeting.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 It is a statutory requirement that the Committee has Assessment Procedures and Criteria in place, which follow the Standards Board's guidance. It is therefore necessary for the Committee to approve a procedures and criteria document, but it is open to the Committee to amend the attached draft document, provided that any amendments are consistent with Standards Board guidance. The report highlights the areas of the draft document that require the Committee's particular consideration.

5.0 Conclusion

5.1 The Committee is asked to consider the report and the matters listed in the Recommendations.

CONCLUSION OF IMPACT ASSESSMENT

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

None arising from this report.

FINANCIAL IMPLICATIONS

The only specific expenditure arising from this report would occur if the Committee was minded to publish a notice in the local newspapers. The estimated cost would be in the region of £600. The Standards Committee has no budget for this, but the cost could be met from the Council's existing advertising budget.

The new arrangements are a statutory requirement, and it remains to be seen what the resource implications will be. Since the implementation of the Local Government Act 2000, there have been very few complaints made to the Standards Board about the conduct of our city and parish councillors. If this continues, then there should be no financial implications. However, if more complaints are received, there will be resource implications for the Monitoring Officer, Legal Services, and Democratic Services, in terms of servicing meetings and carrying out investigations or training and conciliation, and additional demands on Member time. If the Sub-Committees are required to meet on a regular basis, the Independent Remuneration Panel may need to consider in due course whether any additional special responsibility allowances are required. At this stage, however, the implications cannot be quantified.

SECTION 151 OFFICER'S COMMENTS

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

LEGAL IMPLICATIONS

The report sets out the requirements of the relevant Regulations.

MONITORING OFFICER'S COMMENTS

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

BACKGROUND PAPERS

None

Contact Officer: Mrs Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR THE INITIAL ASSESSMENT OF COMPLAINTS OF BREACH OF THE CODE OF CONDUCT

Introduction

1. This procedure applies when a complaint is received that a City Councillor, Co-opted Member or Parish Councillor has or may have failed to comply with the relevant Code of Conduct.
2. The person making the complaint will be referred to as the complainant and the person against whom the complaint is made will be referred to as the subject member.
3. The procedure will also apply if a complaint is referred back to the Standards Committee by the Standards Board for England.
4. No Member or officer will participate in any stage of the assessment process if they have any personal conflict of interest in the matter.

Assessment Sub-Committee

5. Upon receipt of a complaint that a City Councillor, Co-opted Member or Parish Councillor has or may have failed to comply with the Code of Conduct, the Monitoring officer will liaise with the Head of Democratic Services or her representative to convene as soon as possible and in any event within 20 working days a meeting of an Assessment Sub-Committee.
6. The Assessment Sub-Committee will comprise three members of the Standards Committee, including an Independent Member who will act as Chairman. Where the complaint relates to a Parish Councillor, the Assessment Sub-Committee will include a parish member of the Standards Committee. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Head of Democratic Services or her representative on a rotational basis, taking account of availability, and on the basis that so far as possible the Assessment Sub-Committee will not include a city councillor of the same group as the Subject Member or the Complainant. *Note checking with SBE whether it is considered good practice or not to always have a parish member on the sub, even if subject member is a city councillor*
7. The Assessment Sub-Committee will be advised by the Monitoring Officer, the Deputy Monitoring Officer or another legal officer.
8. The purpose of the Assessment Sub-Committee will be to decide whether any action should be taken on the complaint – either an investigation or some other action. The Assessment Sub-Committee will not make any findings of fact.
9. The Assessment Sub-Committee will receive in advance of the meeting a copy of the complaint, together with a report prepared by the Monitoring Officer or her representative which will set out the following details:
 - Whether the complaint is within the jurisdiction of the Standards Committee
 - The paragraphs of the Code of Conduct the complaint might refer to, or the paragraphs the complainant has identified

- A summary of key aspects of the complaint if it is lengthy or complex
- Any further information that the officer has obtained to assist the Assessment Sub-Committee with its decision. This may include minutes of meetings, a copy of a member's entry in the register of interests, information from Companies House or the Land Registry, or other easily obtainable documents
- Any clarification obtained by the officer from the complainant if the complaint was unclear

It should be noted, however, that pre-assessment inquiries will be limited, and will not be carried out in such a way as to amount to an investigation.

The Assessment Process

10. The Assessment Sub-Committee will first consider whether the complaint meets the following tests:

- The complaint is against one or more named members of the City Council or a parish council within its district
- The subject member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- The complaint, if proven, would be a breach of the Code under which the subject member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests, then the decision of the Assessment Sub-Committee must be that no further action will be taken.

11. If the complaint meets the above tests, then the Assessment Sub-Committee will proceed to consider whether to refer it to the Monitoring Officer, to refer it to the Standards Board for England, or whether no action should be taken. In making its decision, the Sub-Committee will take account of the Assessment Criteria at Appendix 1, which have been approved by the Standards Committee, and which will from time to time be reviewed by the Committee.

12. The Assessment Sub-Committee will, unless there are exceptional circumstances, reach a decision within 20 working days of receipt of the complaint.

13. If the Assessment Sub-Committee decides to take no action over a complaint, then it will arrange for notice of that decision, including the reasons for it, to be given to the complainant, the subject member, and, if the subject member is a parish councillor, to the clerk to the relevant parish council. This will be done within 5 working days after the date of the meeting.

14. If the Assessment Sub-Committee decides to refer the complaint to the Monitoring Officer or to the Standards Board for England, it will arrange for a summary of the complaint to be sent to the complainant and the subject member stating what the allegation is, and the type of referral that has been made. This will be done within 5 working days after the date of the meeting.

15. However, the Assessment Sub-Committee may decide not to give the subject member a summary of the complaint if it considers that doing so would be against the public interest or would prejudice any future investigation. In considering this, the Sub-Committee will take advice from the Monitoring Officer, and will consider in particular whether it is likely that the subject member may intimidate the complainant or any witnesses involved or whether early disclosure of the complaint may lead to evidence being compromised or destroyed. The

Sub-Committee will balance whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member.

The Review Process

16. If the Assessment Sub-Committee decides not to take any action on a complaint, then the Complainant has a right to request a review of that decision, and will be so advised when notified of the decision.
17. When a request for review is received, the Monitoring officer will liaise with the Head of Democratic Services or her representative to convene as soon as possible and in any event within 20 working days a meeting of a Review Sub-Committee.
18. The Review Sub-Committee will comprise three members of the Standards Committee, including an Independent Member who will act as Chairman. None of these Members will have been members of the Assessment Sub-Committee that considered the original complaint. Where the complaint relates to a Parish Councillor, the Review Sub-Committee will include a parish member of the Standards Committee. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Head of Democratic Services or her representative on a rotational basis, taking account of availability, and on the basis that so far as possible the Review Sub-Committee will not include a city councillor of the same group as the Subject Member or the Complainant.
19. In addition to the documents referred to in paragraph 9 above, the Review Sub-Committee will have a copy of the Assessment Sub-Committee's decision notice, but will consider the complaint afresh, using the Assessment Criteria at Appendix 1. *Checking with SBE that this is ok.* The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee and will follow the procedure outlined above in paragraphs 10-15.
20. Where on a request for review further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint, the Review Sub-Committee will consider if it is more appropriate to pass this to an Assessment Sub-Committee as a new complaint. In this instance, the Review Sub-Committee will make a formal decision that the review request will not be granted.

Withdrawing Complaints

21. If a complainant asks to withdraw the complaint prior to the Assessment Sub-Committee having made a decision on it, the Assessment Sub-Committee will decide whether or not to grant the request. In making its decision, the Sub-Committee will consider:
 - Whether the public interest in taking some action on the complaint outweighs the Complainant's wish to withdraw it
 - Whether the complaint is such that action can be taken on it without the complainant's participation
 - Whether there is an identifiable underlying reason for the request to withdraw the complaint, and in particular whether there is any evidence that the Complainant may have been pressured by the subject member or other person to withdraw the complaint

Confidentiality

22. If a Complainant has asked for their identity to be withheld, this request will be considered by the Assessment Sub-Committee at the same time as it considers the complaint.
23. As a matter of fairness and natural justice, the subject member should usually be told who has complained about them. However, in exceptional circumstances, the Assessment Sub-Committee may grant confidentiality if it is satisfied that the Complainant has reasonable grounds for believing that they will be at risk of physical harm, or their employment will be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
24. The Assessment Sub-Committee will also take into account whether it would be possible to refer the complaint without making the Complainant's identity known, and in particular whether the Complainant's participation would be required if the complaint were referred.
25. If the Assessment Sub-Committee decides to refuse a request any a Complainant for confidentiality, it may offer the Complainant the option to withdraw, rather than proceed with their identity being disclosed. The Assessment Sub-Committee will balance whether the public interest in taking action on a complaint may outweigh the complainant's wish to have their identity withheld from the subject member

Complaints about Members of more than one Authority

26. Where a complaint is received about a city or parish councillor who is known to be a member of another authority, for example the County Council or police authority, the Monitoring Officer will before the meeting of the Assessment Sub-Committee establish whether a similar allegation has been made to the other authority. In the light of information from and in co-operation with the other authority, the Assessment Sub-Committee will consider which authority should deal with the complaint.

APPENDIX 1

LANCASTER CITY COUNCIL STANDARDS COMMITTEE – ASSESSMENT CRITERIA

A. Circumstances where the Assessment Sub-Committee may decide that no action should be taken in respect of the allegation:

A1 Where the complaint is about someone who is no longer a member of the city council or a parish council

A2 Where the information provided by the complainant is not sufficient to enable the Sub-Committee to make a decision as to whether the complaint should be referred for investigation or other action

A3 Where a substantially similar allegation has previously been made by the complainant to the Standards Board or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority, (except where a Review Sub-Committee considers that a request for review contains new information and should be considered by an Assessment Sub-Committee rather than the Review Sub-Committee)

A4 Where the complaint is about something that happened so long ago that there would be little benefit in taking action now

A5 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter

A6 Where the allegation discloses a potential breach of the Code of Conduct, but the Committee considers that the complaint is too trivial to merit further action

A7 Where the complaint appears to be malicious, politically motivated or tit-for-tat

B. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for investigation

B1 Where the allegation discloses a potential breach of the Code of Conduct that the Committee considers sufficiently serious to justify the cost of an investigation

C. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for training, conciliation or other steps as appear appropriate to the Standards Committee

Note This approach may be appropriate where the Sub-Committee believes that the conduct, if proven, may amount to a failure to comply with the Code, and that some action should be taken in response to the complaint. If this approach is taken, the purpose of the action is NOT to find out whether the subject member breached the Code, and no conclusion will have been reached on whether the subject member failed to comply with the Code.

C1 Where the complaint suggests that there is a wider problem throughout the authority and it is appropriate to extend the action to other members who are not the subject of the complaint

C2 Where it is apparent that the subject of the allegation has admitted making an error and the matter would not warrant a more serious sanction

C3 Where it appears that even if the allegation were fully investigated, and a breach of the Code of Conduct upheld, training or conciliation would be the appropriate remedy

D. Circumstances where the Standards Committee may decide to refer an allegation to the Standards Board

D1 Where the Assessment Sub-Committee believes that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for the Standards Committee to deal with the complaint. For example if the complaint is about the Leader of the Council or a Group Leader, or a member of the Cabinet or Standards Committee

D2 Where the Assessment Sub-Committee believes that the status of the complainant(s) would make it difficult for the Standards Committee to deal with the complaint. For example if the complainant is a group leader, member of Cabinet or the Standards Committee, or the Chief Executive or a statutory officer.

D3 Where the Assessment Sub-Committee considers that there is a potential conflict of interest of so many members of the Standards Committee that it could not properly deal with the matter itself

D4 Where the Assessment Sub-Committee believes that that there is a potential conflict of interest of the Monitoring Officer or other officers, and that suitable alternative arrangements cannot be put in place to address the conflict

D5 Where the case is so serious or complex that it cannot be handled locally

D6 Where the complaint will require substantial amounts of evidence beyond that available from the authority's documents, its members or officers

D7 Where the complaint relates to long-term or systematic member/officer bullying which could be more effectively investigated by someone outside the Council

D8 Where the allegation raises significant or unresolved legal issues on which a national ruling would be helpful

D9 Where the public might perceive the Council to have an interest in the outcome of a case. For example if the authority could be liable to be judicially reviewed if the complaint were upheld



STANDARDS COMMITTEE COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the Monitoring Officer of the authority
- the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ()

Making your complaint

Your complaint will be considered by an Assessment Sub-Committee of the Council's Standards Committee. The Sub-Committee meets in private, normally within twenty working days of receipt of a complaint. A copy of the assessment procedure and assessment criteria are available on the Council's website www.lancaster.gov.uk, or on request from the Monitoring Officer. These documents set out the decisions that the Sub-Committee may reach. You and the member you are complaining about, and, if applicable the parish or town clerk, will be notified of the Sub-Committee's decision within five working days after the meeting. if you have any queries, please contact Mrs. Sarah Taylor, Monitoring Officer, 01524 582025 STaylor@lancaster.gov.uk

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Assessment Sub-Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- You would be at risk of physical harm
- Your employment would be jeopardised
- Your medical condition is such that you would be at risk (medical evidence would normally be required)
- Providing details of the complaint may result in intimidation of witnesses
- Providing details of the complaint may lead to evidence being compromised or destroyed

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible. Please contact the Monitoring Officer, Mrs. Sarah Taylor, telephone 01524 58205, e mail STaylor@lancaster.gov.uk, who will nominate an officer to assist you. This may involve transcribing your oral complaint and producing a written copy for approval by you or your representative, or providing a translation service.

Equality Monitoring information

We are required to monitor ethnic or national origin to ensure that we do not inadvertently discriminate against members of a particular group. It would, therefore be helpful if you would complete the ethnic monitoring section of the form, although this is not compulsory.

The answers will be removed and kept entirely separate from your complaint and will be completely confidential. They will be used for statistical purposes only, and individuals will not be identified.

Your ethnic origin

Asian or Asian British	
Black or Black British	
Chinese	
White: British	
White: Irish	
White: Other	

LOCAL ASSESSMENT OF COMPLAINTS

Contents

- introduction
- pre-assessment
- assessment
- decision
- review
- other issues to consider



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introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the assessment of complaints that a member may have breached the Code of Conduct.

It details each stage of the assessment of complaints and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the assessment of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the assessment of complaints must take this guidance into account when doing so.

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

introduction

Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of the local assessment of complaints. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue more regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

Background

More than 100,000 people give their time as members of authorities. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly.

Anyone who considers that a member may have breached the Code of Conduct may make a complaint to that member's local

standards committee. Each complaint must then be assessed to see if it falls within the authority's legal jurisdiction. A decision must then be made on whether some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that the committee assessing the complaint has made up its mind about the allegation. It simply means that the committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

The process for dealing with matters at a local level should be the same for all members. It must be fair and be seen to be fair.

Responsibilities

The assessment of complaints that a member may have breached the Code of Conduct is a new function for standards committees. It was previously undertaken centrally by the Standards Board for England.

Where a member is the subject of an allegation, we shall refer to that member as a **subject member**.

We shall use the term **independent member** to describe a person – not a member or officer of that or any other relevant authority – who is appointed to an authority's standards committee. Independent members work with the

introduction

authority to develop and maintain standards of conduct for members and are appointed under Section 53 of the Local Government Act 2000 and Regulation 5 of the regulations. At least 25% of the members of a standards committee must be independent members.

In order to carry out its functions efficiently and effectively, the standards committee must establish sub-committees. Creating sub-committees will allow the separate functions involved in the handling of cases to be carried out without conflicts of interest. These functions are:

- the **initial assessment** of a complaint received by the standards committee
- any **request** a standards committee receives from a complainant **to review its decision to take no action in relation to a complaint**
- any **subsequent hearing** of a standards committee to determine whether a member has breached the Code and, where appropriate, to impose a sanction on a member

The standards committee must establish a sub-committee which is responsible for assessing complaints that a member may have breached the Code. We shall refer to this as the **assessment sub-committee**.

The assessment sub-committee will need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

A complainant may make a request for a review of a standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a sub-committee which is responsible for carrying out these reviews. We shall refer to this as the **review sub-committee**.

This committee will also need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

There should be a minimum of three independent members on the standards committee to ensure that there is an independent member available without a conflict of interest for both the assessment and review sub-committees.

The standards committee can then effectively carry out these statutory functions, allowing for the situation of one independent member of the standards committee being absent or unavailable.

If the authority is responsible for any parish or town councils there should also be a minimum of three parish or town council representatives on the standards committee. This will ensure that there is a parish or town council representative available without a conflict of interest for both the assessment and review sub-committees when a complaint is considered about a member of a parish or town council.

introduction

The assessment and review sub-committees are not required to have fixed membership or a fixed chair.

Standards committee members who have been involved in decision making on the initial assessment of a complaint must not take part in the review of that decision. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

Standards committee members involved in a complaint's initial assessment, or in a review of a standards committee's previous decision to take no further action, can take part in any subsequent standards committee hearing.

The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment and review sub-committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

pre-assessment

Publicising the complaints system

Each authority is required to publish a notice detailing where Code of Conduct complaints should be sent to. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints and what the process entails. If an authority is responsible for parish and town councils, the notice should make this clear.

The complaints system may be publicised through:

- an authority's website
- advertising in one or more local newspapers
- an authority's own newspaper or circular
- notices in public areas such as local libraries or authority reception areas

It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The standards committee must also continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the standards committee needs to alert the public to any changes in such arrangements.

Authorities need to think carefully about how publicity for their complaints system is worded. This is to ensure that members of the public are clear about how to complain, who to complain to, and if there may be an alternative to a formal complaint to the standards committee.

Authorities should also consider whether their constitution requires an amendment to reflect the introduction of the local assessment of complaints. The constitution should make it clear that the citizen's right is to complain to the local standards committee and not to the Standards Board for England.

The standards committee must publish, in whatever manner it considers appropriate, details of the procedures it will follow in relation to any written allegation received about a member.

The submission of complaints and accessibility

There are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct:

- Authorities may choose to integrate the making of Code complaints into the existing complaints framework. This will mean that when a complaint is received, it can be analysed to decide which of the complaints processes is most appropriate. The authority can then advise the complainant accordingly.
- Authorities may choose to develop a separate process for Code complaints so the process for such complaints is distinct from all other complaints.

When deciding which option is most appropriate, authorities should consider that some complainants will not know where to direct their complaint.

pre-assessment

Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with incoming complaints will need to be alert to a complaint that a member may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the assessment sub-committee for consideration.

Where an authority is responsible for parish and town councils, it should make this clear. It should also consider whether a separate complaint form or section of a complaint form should be used.

Where an existing complaint system is used, complaint forms may need to be amended to take into account complaints under the Code. Alternatively, authorities that choose to develop a separate system for the submission of Code complaints may produce a separate complaint form for this.

Without using a separate complaint form, authorities may find it sufficient to give clear guidelines as to the information that complainants need to provide.

This should include:

- the complainant's name, address and other contact details
- complainant status, for example, member of the public, fellow member or officer

- who the complaint is about and the authority or authorities that the member belongs to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- equality monitoring data if applicable, for example nationality of the complainant
- a warning that the complainant's identity will normally be disclosed to the subject member. **Note:** in exceptional circumstances, if it meets relevant criteria and at the discretion of the standards committee, this information may be withheld.

Complaints must be submitted in writing. This includes fax and electronic submissions. However, the requirement for complaints to be submitted in writing must be read in conjunction with the Disability Discrimination Act 2000 and the requirement to make reasonable adjustments.

An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to

pre-assessment

complainants where English is not the complainant's first language.

When a complaint is addressed to the authority's monitoring officer, the monitoring officer should determine whether the complaint should be directed to the assessment sub-committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the monitoring officer does not have to pass it to the assessment sub-committee.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the standards committee. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant.

Acknowledging receipt of a complaint

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries. Please see the section on **Notification requirements** on **page 18** for further information.

The notification can say that a complaint has been made, and state the name of the

complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member.

The administrative processes that the authority adopts should be agreed with the standards committee as part of the processes and procedures that they must publish.

pre-assessment

Pre-assessment reports and enquiries

Authorities may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the assessment sub-committee to consider. This could, for example, set out the following details:

- whether the complaint is within jurisdiction
- the paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified
- a summary of key aspects of the complaint if it is lengthy or complex
- any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:
 - a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
 - b) minutes of meetings
 - c) a copy of a member's entry in the register of interests
 - d) information from Companies House or the Land Registry
 - e) other easily obtainable documents

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee's decision or make the decision for it.

assessment

Initial tests

Before assessment of a complaint begins, the assessment sub-committee should be satisfied that the complaint meets the following tests:

- it is a complaint against one or more named members of the authority or an authority covered by the standards committee
- the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

Developing assessment criteria

The standards committee or its assessment sub-committee will need to develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the committee members from accusations of bias. Assessment criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

In drawing up assessment criteria, standards committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and elected members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

To assist in developing the criteria for accepting a complaint or for deciding to take no further action on it, a standards committee or assessment sub-committee may want to ask itself the following questions and consider the following response statements. These will provide a good foundation for developing assessment criteria in the context of local knowledge and experience:

assessment

Q: Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?

If the answer is **no**: “The information provided was insufficient 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.”

Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the assessment sub-committee wish to refer the complaint to the monitoring officer of that other authority?

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider.”

Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If the answer is **yes**: “The matter of complaint has already been subject to a

previous investigation or other action and there is nothing more to be gained by further action being taken.”

Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

If the answer is **yes**: “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 under the circumstances that further action was not warranted.”

Q: Is the complaint too trivial to warrant further action?

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

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

If the answer is **yes**: “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”.

The assessment criteria that the standards committee adopts should be made publicly available.

decision

Initial assessment decisions

The assessment sub-committee should complete its initial assessment of an allegation within an average of 20 working days, to reach a decision on what should happen with the complaint.

The assessment sub-committee is required to reach one of the three following decisions on a complaint about a member's actions in relation to the Code of Conduct:

- referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority
- referral of the complaint to the Standards Board for England
- no action should be taken in respect of the complaint

New rules have been made about what the assessment sub-committee must do when a decision has been made. Please see the section on **Access to meetings and decision making** on **page 22** for further information.

The time that the assessment sub-committee takes to carry out its initial assessment of a complaint is key in terms of being fair to the complainant and the subject member. It is also in the public interest to make a timely decision within an average of 20 working days. The assessment sub-committee should

therefore aim to achieve this target wherever possible.

Referral for local investigation

When the assessment sub-committee considers a new complaint, it can decide that it should be referred to the monitoring officer for investigation.

The monitoring officer must write to the relevant parties informing them of the decision and, if appropriate, advising who will be responsible for conducting the investigation. Please see the section on **Notification requirements** on **page 18** for further information.

Referral to the Standards Board for England

In most cases, authorities will be able to deal with the investigation of complaints concerning members of their authorities and, where relevant, the parish and town councils they are responsible for. However, there will sometimes be issues in a case, or public interest considerations, which make it difficult for the authority to deal with the case fairly and speedily. In such cases, the assessment sub-committee may wish to refer a complaint to the Standards Board to be investigated by an ethical standards officer.

If the assessment sub-committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. It would be helpful if the assessment

decision

sub-committee let us know the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why it cannot be dealt with locally.

We may accept cases for investigation by an ethical standards officer, take no action, or refer cases back to the standards committee which referred them. When deciding which of these actions to take, we will be principally concerned with supporting the ethical framework nationally and locally.

We will take the following matters into account in deciding which cases we should accept in the public interest:

- Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
- Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
- Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
- Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
- Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
- Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
- Is there substantial governance dysfunction in the authority or its standards committee?
- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its

decision

standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

We will normally inform the monitoring officer within ten working days whether we will accept a case or whether we will refer it back to the standards committee, with reasons for doing so. There is no appeal mechanism against our decision.

Referral back to a standards committee from the Standards Board for England

If we decline to investigate a complaint referred to us, we will normally send it back to the authority's standards committee with the reasons why. The standards committee must then decide what action should be taken next.

The assessment sub-committee must again take an assessment decision and should complete this within an average of 20 working days.

This may be a decision not to take any further action, to refer the matter for local investigation, or to refer the matter for some other form of action. As the assessment sub-committee initially decided that the matter was serious enough to be referred to the Standards Board for investigation, it is likely that it will still think that it should be investigated.

However, if the circumstances of the complaint have changed since the

assessment sub-committee's original decision, it may be reasonable to take a different decision. This decision will again need to be communicated to relevant parties in the same way as the original decision was. Please see the section on **Notification requirements** on **page 18** for further information.

If we decline to investigate a case referred to us, we may, in the circumstances, offer guidance or give a direction to the standards committee, which may assist with the standards committee's decision.

In exceptional circumstances, we may decide to take no further action on a complaint referred to us by a standards committee. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because we do not consider that the complaint discloses a breach of the Code of Conduct.

Referral for other action

When the assessment sub-committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the monitoring officer to carry this out. It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The assessment sub-committee must consult its monitoring officer before reaching a decision to take other action.

decision

The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct will lend themselves to being resolved in this way. They can also indicate a wider problem at the authority concerned. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. Other action can be the simplest and most cost effective way of getting the matter resolved, helping the authority to work more effectively, and of avoiding similar complaints in the future.

The assessment sub-committee can choose this option in response to an individual complaint or a series of complaints. The action decided upon does not have to be limited to the subject member or members. In some cases, it may be less costly to choose to deal with a matter in this way rather than through an investigation, and it may produce a more effective result.

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources

Other action may also be appropriate where a breakdown in relationships within the authority is apparent, evidence of which may include:

- a) a pattern of allegations of disrespect, bullying or harassment
- b) factionalised groupings within the authority
- c) a series of 'tit-for-tat' allegations
- d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures

The assessment sub-committee is encouraged to consider other action on a practical basis, taking into account the needs of their own authority and of the parish and town councils which they serve. Everyone involved in the process will need to understand that the purpose of other action is not to find out whether the member breached the Code – the decision is made as an alternative to investigation. If the monitoring officer embarks on a course of other action, they should emphasise to the parties concerned that no conclusion has been reached on whether the subject member failed to comply with the Code.

Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. This is unfair to the subject member, and a case may be jeopardised if it has been discussed as part of a mediation process. There is also a difficulty with defining 'failure' in terms of

decision

the other action undertaken. The decision to take other action closes the opportunity to investigate and the assessment sub-committee should communicate this clearly to all parties.

Standards committees may find it helpful to introduce a requirement for the parties involved to confirm in writing that they will co-operate with the process of other action proposed. An example of this would be writing to the relevant parties outlining:

- what is being proposed
- why it is being proposed
- why they should co-operate
- what the standards committee hopes to achieve

However authorities choose to take this forward, the important thing is that all parties are clear about what is, and what is not, going to happen in response to the complaint.

The following are some examples of alternatives to investigation:

- arranging for the subject member to attend a training course
- arranging for that member and the complainant to engage in a process of conciliation
- instituting changes to the procedures of the authority if they have given rise to the complaint

Standards committees may find that resolving a matter in this way is relatively

quick and straightforward compared to a full investigation.

Decision to take no action

The assessment sub-committee can decide that no action is required in respect of a complaint. For example, this could be because the assessment sub-committee does not consider the complaint to be sufficiently serious to warrant any action. Alternatively, it could be due to the length of time that has elapsed since the alleged conduct took place and the complaint was made. The decision reached by the assessment sub-committee and the reasons for it should adhere to the assessment criteria that the standards committee or assessment sub-committee have agreed.

It is important to underline that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the subject member, no action can be taken by the standards committee in respect of it. The matter of referral for investigation or other action therefore does not arise.

The complainant should be advised of their right to ask for a review of a decision to take no action. They should be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review. The complainant should be advised of the date by which their review request should be received by the standards committee.

decision

That date is 30 working days after the initial assessment decision is received.

Notification requirements – local assessment decisions

If the assessment sub-committee decides to take no action over a complaint, then as soon as possible after making the decision it must give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the assessment sub-committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the relevant parties.

The relevant parties will be the complainant and the subject member. We also recommend that the standards committee gives a copy of the decision notice to the parish or town clerk if the subject member is a parish or town councillor. We also suggest that the standards committee sends out its decision notice within five working days of the decision being made.

If the assessment sub-committee decides that the complaint should be referred to the monitoring officer or to the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must not explain why a particular referral decision has been made.

After it has made its decision, the assessment sub-committee does not have to give the subject member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation.

This could happen where it is considered likely that the subject member may intimidate the complainant or the witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. The assessment sub-committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.

The assessment sub-committee should take advice from the monitoring officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the monitoring officer in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.

The monitoring officer will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member. An example of this is allowing the subject member to preserve any evidence. The monitoring

decision

officer should then advise the assessment sub-committee accordingly.

The assessment sub-committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change.

review

Reviews of 'no further action' decisions

If the assessment sub-committee decides not to take any action on a complaint, then the complainant has a right of review over that decision.

The review sub-committee must carry out its review within a maximum of three months of receiving the request. We recommend that the review sub-committee adopts a policy of undertaking the review within the same timescale as the initial assessment decision is taken, aiming to complete the review within an average of 20 working days.

The review must be, and must be seen to be, independent of the original decision. Members of the assessment sub-committee who made the original decision must not take part in the review of that decision. A separate review sub-committee, made up of members of the standards committee, must consider the review.

The review sub-committee should apply the same criteria used for initial assessment. The review sub-committee has the same decisions available to it as the assessment sub-committee.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the review sub-committee should consider carefully if it is more appropriate to pass this to the assessment sub-committee to be handled as a new

complaint. In this instance, the review sub-committee will still need to make a formal decision that the review request will not be granted.

For example, a review may be more appropriate if a complainant wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint
- there has been a failure to follow any published criteria
- there has been an error in procedures

However, if more information or new information of any significance is available, and this information is not merely a repeat complaint, then a new complaint rather than a request for review may be more suitable.

Notification requirements – reviews of local assessment decisions

If the standards committee receives a review request from the complainant, it must notify the subject member that it has received the request. We recommend that all relevant parties are notified when a review request is received.

When the review sub-committee reviews the assessment sub-committee's decision it has the same decisions available to it that the assessment sub-committee had. It could be decided that no action should be taken on the complaint. In this case, the review sub-committee must, as soon as

review

possible after making the decision, give the complainant and the subject member notice in writing of both the decision and the reasons for the decision.

If it is decided that the complaint should be referred to the monitoring officer or to the Standards Board for England, the standards committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice should not explain why that particular referral decision has been made as it might prejudice the investigation or other action.

We recommend that the review sub-committee sends out its decision notice within five working days of the decision being made.

other issues to consider

Access to meetings and decision making

Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

Instead, Regulation 8 of the regulations sets out what must be done after the assessment or review sub-committee has considered a complaint. The new rules require a written summary to be produced which must include:

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

The summary must be written having regard to this guidance and may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The written summary must be made available for the public to inspect at the authority's offices for six years and given to any parish or town council concerned. The summary does not have to be available for inspection or sent to the parish or town council until the subject member has been sent the summary.

In limited situations, a standards committee can decide not to give the written summary to the subject member when a referral decision has been made and, if this is the case, authorities should put in place arrangements which deal with when public inspection and parish or town council notifications will occur. This will usually be when the written summary is eventually given to the subject member during the investigation process. Please see the section on **Notification requirements** on **page 18** for further information.

Review of a decision to take no further action on a complaint is not subject to access to information rules in respect of local government committees.

In addition, authorities must have regard to their requirements under Freedom of Information and Data Protection legislation.

Withdrawing complaints

There may be occasions when the complainant asks to withdraw their complaint prior to the assessment sub-committee having made a decision on it.

other issues to consider

In these circumstances, the assessment sub-committee will need to decide whether to grant the request. It would be helpful if the assessment sub-committee had a framework by which to consider such requests. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

Multiple and vexatious complaints

An authority may receive a number of complaints from different complainants about the same matter. Authorities should have procedures in place to ensure that they are dealt with in a manner that is a practical use of time and resources.

A number of complaints about the same matter may be considered by the assessment sub-committee at the same meeting. If so, an officer should be asked to present one report and recommendation that draws together all the relevant

information and highlights any substantively different or contradictory information. However, the assessment sub-committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

Unfortunately, a small number of people abuse the complaints process. Authorities may want to consider developing a policy to deal with this. For example, they could bring it within the scope of any existing authority policies on vexatious or persistent complainants, or take action to limit an individual's contact with the authority.

However, standards committees must consider every new complaint that they receive in relation to the Code of Conduct. If the standards committee has already dealt with the same complaint by the same person and the monitoring officer does not believe that there is any new evidence, then a complaint does not need to be considered.

A person may make frequent allegations about members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.

Even where restrictions are placed on an individual's contact with the authority, they cannot be prevented from submitting a complaint.

Vexatious or persistent complaints or complainants can usually be identified through the following patterns of

other issues to consider

behaviour, which may become apparent in the complaints process:

- repeated complaints making the same, or broadly similar, complaints against the same member or members about the same alleged incident
- use of aggressive or repetitive language of an obsessive nature
- repeated complaints that disclose no potential breach of the Code
- where it seems clear that there is an ulterior motive for a complaint or complaints
- where a complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted

There are ways that authorities can reduce the resources expended. For example, they can allow a vexatious complainant to deal with only one named officer or refuse email communication. Authorities can also include a statement in their referrals criteria that malicious or tit-for-tat complaints are unlikely to be investigated unless they also raise serious matters. This will allow authorities to decide not to investigate or take other action on such complaints if appropriate.

Case history

Authorities should consider developing a complaints management system. Records of all complaints and their outcomes

should be retained in line with the authority's records management policy. This policy may need to be amended to reflect the authority's new responsibilities in the local assessment of complaints.

Documents that relate to complaints that the assessment sub-committee decided not to investigate should be kept for a minimum of 12 months after the outcome of any review that has been concluded. This is in case of legal challenges, and also in order to meet the Standards Board for England's monitoring requirements.

Authorities should set a time limit for records retention after the outcome of any hearing or result of further action in respect of a complaint is known. This should be set in accordance with the authority's own file retention policy and in accordance with the principles of data protection.

Authorities should keep details of cases in a format that is easy to search by complainant name, by member name, and by authority where an authority is responsible for parish and town councils. Authorities may also want to search by paragraph of the authority's Code of Conduct.

Old cases may be relevant to future complaints if they show a pattern of behaviour. Authorities will also be able to identify complaints about the same matter that have already been considered by the standards committee.

other issues to consider

Authorities will need to consider records management alongside the law on keeping records of committees.

Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. Such requests should only be granted in exceptional circumstances and at the discretion of the assessment sub-committee. The assessment sub-committee should consider the request for confidentiality alongside the substance of the complaint itself.

Authorities should develop criteria by which the assessment sub-committee will consider requests for confidentiality. These may include the following:

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
- The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle-blowing policy).
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such

circumstances, standards committees may wish to request medical evidence of the complainant's condition.

In certain cases, such as allegations of bullying, revealing the identity of the complainant may be necessary for investigation of the complaint. In such cases the complainant may also be given the option of requesting a withdrawal of their complaint.

When considering requests for confidentiality, the assessment sub-committee should also consider whether it is possible to investigate the complaint without making the complainant's identity known.

If the assessment sub-committee decides to refuse a request by a complainant for confidentiality, it may wish to offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member. The assessment sub-committee will need to decide where the balance lies in the particular circumstances of each complaint.

Anonymous complaints

Authorities should publish a statement setting out how complaints received anonymously will be dealt with. The assessment sub-committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or

other issues to consider

photographic evidence indicating an exceptionally serious or significant matter. If so, this needs to be included in the standards committee's assessment criteria.

Members with conflicts of interest

Note: this section does not deal with any interests which may arise under the Code of Conduct, which members must also keep in mind and deal with as appropriate.

A member of the standards committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

The assessment decision relates only to whether the complaint discloses something that needs to be investigated or referred for other action. It does not determine whether the conduct took place or whether it was a breach of the Code. The standards committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

The assessment process must be conducted with impartiality and fairness. There may be cases where it would not be

appropriate for a member to be involved in the process, even if not disqualified from doing so by law. Any member who is a complainant or one of the following should not participate in the assessment process:

- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint

In certain situations, a standards committee member might initially be involved with the initial assessment of a case that is then referred to the Standards Board for England or to the authority's monitoring officer. The case might then be referred back to the standards committee to consider again. In such circumstances, the member may continue their participation in the assessment process.

However, a standards committee member who is involved at these assessment stages of the process, either initially or following a referral back from the Standards Board or monitoring officer, should not participate in the review of that decision.

Authorities should ensure that their standards committee has sufficient independent members, and parish or town representatives where applicable, for the framework to operate effectively. This should allow for circumstances where members are unable to participate for reasons of conflict of interest.

other issues to consider

Officers with conflicts of interest

An officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process. For example, a conflict of interest could mean that the officer will not be able to:

- draft letters
- prepare reports
- contact complainants
- attend the final hearing of that complaint

The officer should also consider whether they should stand aside due to their prior involvement, which has been such that others involved may view them as biased. Officers should take legal advice if they have any doubts.

If the officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter. This is so that the officer can minimise the risk of conflicts of interest that may arise and ensure fairness for all parties.

The monitoring officer should act as the main adviser to the standards committee unless the monitoring officer has an interest in a matter that would prevent them from performing the role independently.

If the monitoring officer is unable to take part in the assessment process, their role

should be delegated to another appropriate officer of the authority, such as the deputy monitoring officer. Similarly, the role of any other officer who is unable to take part in the assessment process should be taken by another officer.

Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to ensure that an experienced officer is available to deputise for the monitoring officer if they are unable to take part in the assessment process.

Personal conflicts

Members and officers should take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint that a member may have breached the Code of Conduct. The provisions of the authority's Code relating to personal and prejudicial interests apply to standards committee members in meetings and hearings.

Anyone who has a prejudicial interest or who is involved with a complaint in any way should not take part in the assessment or review sub-committee. Decisions made in an assessment or review sub-committee should not be influenced by anything outside the papers and advice put before the members in that committee. The members should not discuss complaints with others who are not members of the committee which deals with the assessment or review. Discussions between members should only take place at official meetings.

other issues to consider

Authorities should have clear guidelines in place on when a member or officer should not take part in the assessment of a complaint because of personal interests. These may include consideration of the following:

- The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member or person with whom they have a close association.
- The member or officer is directly or indirectly involved in the case in any way.
- A family member, friend or close associate of the member or officer is involved in the case.
- The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

Complaints about members of more than one authority

The introduction of the local assessment of complaints may raise an issue relating to what should happen if a complaint is made against an individual who is a member of more than one authority – often known as a dual-hatted member.

In such cases, the member may have failed to comply with more than one authority's Code of Conduct. For example, an individual who is a member of a district council and a police authority may be the subject of complaints that they have breached the Code of both authorities. As such, it would be possible for both the assessment sub-committee of the district council and the assessment sub-committee of the police authority to receive complaints against the member.

Where a complaint is received about a dual-hatted member, the monitoring officer of the authority should check if a similar allegation has been made to the other authority, or authorities, on which the member serves.

Decisions on which standards committee should deal with a particular complaint must then be taken by the standards committees themselves, following discussion with each other. They may take advice as necessary from the Standards Board for England.

This will allow for a cooperative approach, including sharing knowledge and information about local circumstances, and cooperation in carrying out investigations to ensure resources are used effectively.

Authorities should also consider whether they need to establish a data sharing protocol with other relevant authorities. The government and the Information Commissioner's Office have produced guidance on such protocols. Visit www.ico.gov.uk for further details on the work of the Information Commissioner.