

ASSEMBLY

25 February 2013

Title:	MANAGEMENT OF COMPLAINTS RELATING TO COUNCILLORS – Standards Regime		
Report of:	The Monitoring Officer		
Open	For Information		
Wards Affected:	None	Key Decision: No	
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Accountable Divisional Director:	Fiona Taylor, Monitoring Officer and Head of Legal and Democratic Services		
Accountable Director:	Graham Farrant, Chief Executive		
Summary:			
<p>On 1 July 2012 the Assembly adopted, as required by the Localism Act 2011, a new Standards local Code of Conduct and Complaint Procedure. The new Code differs from the former statutory Code in that the Monitoring Officer now conducts an initial assessment of complaints about Members against approved criteria, may consult with the new Independent Person and tries to resolve matters informally if possible or appropriate. If the complaint requires further investigation / or referral to the Standards Committee there may still be a hearing of a complaint before a Sub-Committee</p> <p>This report sets out a proposed set of management rules to facilitate early resolution of the requirement to discharge the duty to investigate and conclude complaints made against Members, particularly in instances where the complaints made are incomplete or require further information. These management rules will enable the Monitoring Officer to request persons who make complaints to provide further details of their complaints including necessary evidence to make a decision; furthermore there are occasions where complaints are open-ended and dilatory and they require a complainant to respond in a reasonable time period. These rules were presented to the Standards Committee on 17 January 2013 for consultation and have been approved for presentation to the Assembly</p>			
Recommendation(s)			
<p>The Assembly is recommended to approve the Complaints Management Rules attached at Appendix A to this report and their incorporation into the Constitution in Part E – the Code of Conduct for Councillors.</p>			
Reason(s)			
<p>To ensure that complaints are dealt with in a fair and timely process.</p>			

1. Introduction and Background

- 1.1 The new Code differs from the former statutory Code in that the Monitoring Officer now conducts an initial assessment of complaints about Members against approved criteria and may consult with the new Independent Person to try to resolve matters informally if appropriate. If the complaint requires further investigation / or referral to the Standards Committee there may still be a hearing of a complaint before a Sub-Committee. The legislation expects the Council to develop its own local process for dealing with complaints. To be effective this requires the establishment of our own rules about managing the process.
- 1.2 All courts and tribunals have their own rules about timescales, rules of evidence and management of cases; to do otherwise leads to the injustice of a complainant effectively determining the pace of a complaint and ongoing uncertainty.
- 1.3 During the first few months the need for proactive management has become apparent as a significant proportion of complaints concluded appeared to be motivated by complainants who, having utilised mechanisms for complaints and reviews, have then taken up complaints against Councillors as another option. The Secretary of State in January this year has expressed a concern that resources are not used to indulge vexatious complainants. These rules will ensure that only well-founded complaints are thoroughly investigated and those without merit are determined promptly.

2. Proposal and Issues

- 2.1 This report proposes that a formal set of case management rules is adopted by the Council. They are set out at **Appendix A**.
- 2.2 The rules explained:
 - 2.2.1 The rules require a uniform presentation of complaints, that is to say all complaints against Members must take the form of a written complaint in the prescribed form unless there are special circumstances. They are intended to provide certainty and while allowing clarification, ensure the complainant cannot change the facts or issues as the matter progresses, thus protracting the process. This ensures that if the complaint is without foundation then it can be discharged promptly.
 - 2.2.2 Where the complaint is unclear in terms of particulars such that there is no identified specific breach of the Members' Code of Conduct, the Monitoring Officer can require the complainant to provide further information for clarification including:
 - What the breach is that is alleged
 - When it happened
 - Where it happened
 - Names and contact details of witnesses and
 - To attach evidence relevant to the complaint to support the allegation
 - 2.2.3 As observed, it is a key requirement that matters are dealt with effectively so that the Monitoring Officer can set a timescale for responses to requests for further information and if that is not forthcoming, make a decision based on what is available.

2.2.4 The rules take account of the regrettable fact that a significant proportion of complaints against Members are for mischievous reasons or are frivolous or vexatious in nature and in accordance with localism, may be dismissed at an early stage.

2.2.5 Finally the rules set clarity about communication and data circulation so if a matter proceeds to investigation the Monitoring Officer may circulate copies of the complaint to whoever they consider necessary, including the Member and their representative(s) and outside agencies rather than let the complainant dictate the circulation.

3. Options Appraisal

- Do nothing

This is contrary to good practice as statutory bodies are rightly expected to efficiently manage their processes. It is unfair on both the Member and complainant for matters to drag indefinitely and a waste of both time and scarce resources.

- Do nothing just yet

We could adopt a wait and see approach; however early information is that follow up requests are having to be made to the complainants on a repetitive basis due to vagueness and incoherence of the initial complainant. This is unacceptable.

- Take action

We consider this is the right approach; a pro-active case management is a hallmark of a well administered organisation.

4. Consultation

Standards Committee

5. Financial Implications - N/A

6. Legal Implications

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6.1 The Localism Act 2011 sets the task to a Local Authority of developing a local management of complaints and the proposals set out in this report are devised to contribute to this aim.

6.2 The Complaints Management Rules will contribute to a timely and fairer process which is in the interests of justice for all concerned.

7. Other Implications N/A

List of Appendices –

Appendix A Management of Complaints rules relating to Councillors (2013)