
PROCEDURE FOR HANDLING COMPLAINTS AGAINST MEMBERS

Responsible Cabinet Member – Councillor John Williams, Leader

Responsible Director – Paul Wildsmith, Director of Corporate Services

SUMMARY REPORT

Purpose of the Report

1. To seek members approval for a revised procedure for handling complaints against members.

Summary

1. On 8 May 2008 responsibility for receipt and handling of complaints against Members transferred from the Standards Board for England to local Standards Committees. In May last year Council approved a procedure for handling complaints. As the legislation was introduced in April and came into force on 8 May 2008 the time for preparing the procedure was limited and therefore new provisions were added to the existing procedure for the determination of complaints. Since that time new guidance has been issued and the Standards Committee has had experience of handling complaints against members. The Committee therefore made a decision at its meeting on 2 February 2009 to undertake a review of the procedure. The revised procedure was considered at Standards Committee on 16th March 2009. Members were pleased with the revisions and referred the revised procedure to Council.
2. The changes to the procedure will make it easier to see which parts of the procedure is statutory regulation, which parts are guidance and which parts are local choice. They will also address some key concerns of Members of the Committee in relation to the current procedure. In particular it will ensure that a member complained of is informed immediately if a complaint is made against them. The current procedure does not permit this with the result that a meeting of the Sub-Committee will take place to discuss the conduct of a Member before that member knows that there is a concern. The revised procedure is attached at **Appendix 1**.

Recommendation

3. It is recommended that:
 - (a) Members approve the revised procedure.

- (b) The procedure is added to the Council’s Standards Committee page of the website so that it is accessible to everyone.

Reasons

4. The recommendations are supported by the following reasons:
- (a) To improve the procedure for dealing with complaints against members and make it easier to follow that procedure.
- (b) To ensure the procedure is accessible to the public and members.

Catherine H Whitehead
Borough Solicitor

Background Papers

Standards Board for England Guidance on:
Local Assessment of Complaints
Local Investigation and Other Action
Standards Committee Determination

Appendix

Revised Procedure

C.Whitehead : Extension 2306

S17 Crime and Disorder	There are no specific implications for Crime and Disorder
Health and Well Being	There are no specific implications for Health and Well Being
Sustainability	There are no sustainability issues
Diversity	There are no diversity issues
Wards Affected	All wards are affected equally
Groups Affected	Members of the Council
Budget and Policy Framework	This does not affect the Budget and Policy Framework, but Standards are a Council function
Key Decision	This is not an Executive decision
Urgent Decision	N/A
One Darlington: Perfectly Placed	The ethical agenda and the promotion of trust and confidence in the organisation support all of the objectives of the Community Strategy in so far as they facilitate public involvement in decision making. This is specifically addressed in the national indicator NI 4.
Efficiency	The current procedure has little flexibility for redirecting or resolving complaints prior to a hearing of the sub-committee. The procedure is designed to introduce this flexibility to reduce the amount of officer and member time and paperwork directed to resolving complaints.

MAIN REPORT

Information and Analysis

5. The Local Government and Public Involvement in Health Act 2007 transferred responsibility for local assessment of complaints to local Standards Committees from the Standards Board for England. The regulations were introduced hastily being laid before Parliament on 17 April 2008 and came into force on 8 May 2008. Guidance was introduced by the Standards Board for England on 2 May 2008 and revised on 23 June 2008. This Authority like others was forced to introduce a hastily revised procedure on 22 May 2008 to enable us to handle complaints, and the first complaint was received on 12 May 2008 and dealt with after the procedure was approved by Council. The procedure was not surprisingly a bolt on of local assessment on top of the existing procedure we had for determination of complaints pending a full rewrite.
6. Since the implementation of local assessment the Authority has dealt with 15 local assessments, two reviews and has held two determination hearings. The experience of handling those complaints has helped to inform the revised procedure. Members of the Standards Committee have developed views through their own experience about the fairness of the process, particularly in relation to the Members who are the subject of the complaints, and their rights to know that meetings are taking place within the Authority to consider their conduct.
7. Adherence to the statutory guidance is mandatory, the regulations themselves are also mandatory requirements, there are nonetheless a number of matters which have local discretion. It is important that the procedure makes clear which elements are mandatory and which are subject to review in future. This will be achieved by colour coding the procedure to indicate the mandatory elements, and giving a general power for the Chairman of the Committee/Monitoring Officer to waive the rules where the complainant and the subject member agree. It is also important to ensure that the mandatory elements of the guidance are incorporated into the procedure to prevent the need for members sitting on sub-committees to cross refer between guidance, regulations and our own procedure.
8. The procedure which was entitled Procedure for the Assessment, Investigation and Determination of Complaints which reflected the bolt on nature of the amendments, should be changed to the simpler Procedure for Handling Complaints Against Members.
9. Other improvements allow the Monitoring Officer to seek to resolve complaints before they are referred to the Assessment Sub-Committee and to refer the proposed resolution to the Sub-Committee for approval. The changes also allow the Monitoring Officer to reject complaints which are repeats of complaints that have already been considered under local assessment or which are not complaints about a breach of the Code of Conduct under the regulations. This discretion will hopefully prevent unnecessary meetings of the Sub-Committee and help to bring matters to a conclusion as quickly as possible.
10. During 2008 the Standards Committee established a new web page which provides advice to Members of the public wishing to make a complaint. It is proposed that the revised procedure be added to the website, partly because there is a requirement that the procedure be made clear to complainants and members complained of, including parish members.

11. Complaints against Members are currently received by the Monitoring Officer and logged as a complaint. To ensure that the Authority has a comprehensive complaints process and to provide a single point of contact for all complaints, in future complaints will be referred to the central Complaints Unit and if the complaint relates to a member it will be referred to the Monitoring Officer who will then ensure, through democratic services, that the complaint is referred to the Assessment Sub-Committee subject to any discretion available to the Monitoring Officer for the resolution of complaints.
12. On the 16 March 2009 the Standards Committee met to consider the revised Procedure for Handling Complaints against Members and agreed to recommend to the Council that Council approve the revised procedure.

Outcome of Consultation

13. The Standards Committee, Committee Staff and Members have been consulted about the revised procedure.