



## Standards Board - 7 July 2010

### Learning from recent Assessment SubCommittee Activity

#### Summary

This report asks Members to consider a number of issues arising from recent Assessment Sub Committee activities and recommend any necessary changes to formal procedures or informal practices that would increase the effectiveness of the local Standards Framework

#### Attachment(s)

#### 1.0 Background

1.1 Over the past year two Assessment Sub-Committees have been held to consider complaints against local Councillors for alleged breach of the Code of Conduct. In both cases the Assessment Sub Committee has decided to ask the Monitoring Officer to take other action. Both complaints centred round Declarations of Interest issues, which also continue to be the main source of requests for advice by the Monitoring Officer. The consideration of these complaints has raised a number of issues which it is felt merit wider consideration by the Board, particularly in the light of the possibility of development of a more localised approach to the determination of Code of Conduct complaints when Standards for England is abolished.

#### 2.0 Notification of Complaints

2.1 It has been suggested that all members of the Standards Committee should be informed when an Assessment Sub-Committee is convened to hear a complaint.

2.2 Historically no information has been given until the next Standards Committee when the fact that an Assessment Sub-Committee has been held will be noted in the Monitoring Officer's report. (A summarised version of complaint will then be presented via the Monitoring Officer's report at the end of the complaint process.)

2.3 The reason for the measured release of information is to ensure that members are not prevented from serving on the Appeal or Hearing stages of the complaint should they be required because of previous knowledge.

2.4 There is no reason however why all members of the Standards Committee should not be informed simply that a complaint has been made against a Councillor but it is unclear if this would add value as no additional information could be supplied at this stage.

#### 3.0 Selection of Assessment Sub-Committee

3.1 The Council's procedure for the processing of Code of Conduct Complaints does not specify how the Assessment Sub-Committee will be selected, only that it should be composed of an Independent member (who will chair the Sub-Committee), a Town or Parish Councillor member and a District Council Member.

3.2 Currently the Sub-Committee is selected by the Monitoring Officer and Deputy Monitoring Officer on the basis of experience (mixing Members with experience of Assessment Sub-Committees and those new to the process) and availability (given that the Assessment Sub-Committee has to be convened within 20 working days of

receiving the complaint. By the time of this Sub-Committee 6 of the 12 current Members of the Standards Board will have served on an Assessment Sub-Committee.

#### **4.0 Declarations of Interest**

4.1 As noted above Declarations of Interest continue to be the most common issue for advice requests and complaints. Although the Code of Conduct, and accompanying guidance produced by Standards for England, provides guidance which is clear in most situations, there are still some gaps where more local guidance or use of a local convention might be considered.

4.2 The first of these is in relation to when it became appropriate for Register of Interest matters to be declared in council debates. Under Paragraph 8 of the Code of Conduct Councillors are required to declare at least a personal interest if the subject under debate affects something declared on their Register of Interest. However the guidance given in the 2007 Case Review suggests that personal interests (whether on the Register of Interests or not) should only be declared if the issue under debate affects the Councillor more than others in the ward. When this issue was raised on a Monitoring Officer e-Forum it was suggested that both interpretations should apply i.e. the Councillor has a personal interest either because it is on the Register of Interests, OR because the Councillor's well being is affected more than others in their ward. In a recent complaint it was agreed by the Assessment Sub-Committee that at least a personal declaration of interest was required in relation to a matter on the Register of Interests. Is this an overly strict interpretation?

4.3 The second is how relationships between Councillors are declared, in particular but not exclusively, where Councillors are married to each other. There will also be other family or close relationship. Sometimes it may be thought that such relationships are obvious (e.g. where Councillors share the same surname or correspondence address) but sometimes this will be less so. Many District and Town and Parish Councils have a number of married couples serving as Councillors.

4.4 Should the Monitoring Officer be asked to remind all members of the Council to have regard to public perceptions regarding close associations between Councillors, and to be mindful of whether they need to declare a personal interest when nominating or voting for another Councillor with whom they have a close association to ensure due transparency of process? Enquiries have not so far found any other councils where such a declaration would be made.

4.5 Does the position change if the position for which Councillor is being nominated for carries a financial allowance or other financial advantage?

#### **5.0 Reporting of Assessment Sub Committee Outcomes**

5.1 It is important that learning from complaints and their handling is shared with the Standards Committee as any member could be asked to serve on an Assessment Sub-Committee. There have not been many previous complaints for us to establish an effective mechanism for doing this although an outline of the complaint has always been reported in the next appropriate Monitoring Officer's report

5.2 Because of the possible need to share confidential or sensitive information in order to convey the context of the complaint, previous sharing of learning from Assessment Sub-Committees has been done in training workshops.

5.3 Two key factors which inform how and when the outcome of an Assessment Sub-Committee is reported are the outcome chosen and the views of the Councillor complained against (Subject Councillor).

5.4 If the Assessment Sub-Committee decides that no further action is required, the complainant may decide to request a review of the decision. No information could be

placed in the public domain until the notice period for a Review has passed. A summary of the Assessment Sub-Committee's deliberations and decision is sent to the Complainant, Subject Councillors plus Town or Parish Council if appropriate, plus a copy is retained for public inspection. However it would not normally be the case that any wider statement would be made, which limits what can be reported to, or at, the Standards Board meeting which is open to the public.

- 5.5 If the Assessment Sub-Committee decides that the Monitoring Officer should take alternative action, then a fuller report would not be possible until after the re-convened Assessment Sub-Committee is satisfied with the outcome of the action taken. Again in reporting at this stage, consideration needs to be given that no 'finding of fact' was made so that the subject Councillor(s) may find it unacceptable that they are linked to a complaint which they may consider to be unresolved.
- 5.6 Obviously if the matter is referred for local investigation or investigation by Standards for England no reporting is possible until after the Hearing stage. At this stage if a breach of the code is found a written report will be sent to the appropriate Council and Standards for England, together with publication of the decision notice in the Nene Valley News and on the council's website. If no breach is found, the subject Councillor may ask for the Nene Valley News and website publication not to be made.
- 5.7 Members are asked to consider if the above arrangements are still appropriate or if alternative arrangements should be considered and possibly formalised via changes to the Local Assessment Procedure.

**6.0 Implications of Use of Other Action**

6.1 As previously stated both recent complaints have resulted in 'other action' being taken by the Monitoring Officer. This has raised two issues which the Board is asked to reflect on:

a) In taking 'other action' no 'finding of fact' is made. This means that the Subject Councillor is neither cleared of the complaint nor found guilty. However unlike the complainant they also have no right of review of the decision. This leaves Councillors concerned that allegations have been made against them which they have no right of reply or rebuttal.

b) Currently under the local procedure, in line with national guidance, if the decision of the Assessment Sub-Committee is for other action, there is no right of appeal for the complainant

- 6.2 Should consideration be given to extending the right of review of decision to the complainant and possibly the Subject Councillor in the case of 'Other Action' decisions?
- 6.3 An alternative might be to consider changing the local procedure to allow the Subject Councillor to make a short written response to the complaint which can also be considered at the Assessment Sub-Committee at the same time as the complainant's letter.

**7.0 Recommendations**

7.1 Members of the Board are invited to discuss the issues raised above.

<b>Implications:</b>			
<b>Corporate Outcomes or Other Policy/Priority/Strategy</b>			
Good Quality of Life	<input checked="" type="checkbox"/>	Good Reputation	<input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/>	High Quality Service Delivery	<input type="checkbox"/>

Effective Partnership Working	<input type="checkbox"/>	Strong Community Leadership	<input type="checkbox"/>
Effective Management	<input type="checkbox"/>	Knowledge of our Customers and Communities	<input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours			<input checked="" type="checkbox"/>
<b>Other:</b> Ethical Framework			<input checked="" type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval			<input type="checkbox"/>
<b>Financial</b>	There are no financial implications at this stage		<input checked="" type="checkbox"/>
	There will be financial implications – see paragraph		<input type="checkbox"/>
	There is provision within existing budget		<input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date		<input type="checkbox"/>
	Decisions may have potential for income generation		<input type="checkbox"/>
<b>Risk Management</b>	An assessment has been carried out and there are no material risks		<input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - residual risk score -		<input type="checkbox"/>
<b>Staff</b>	There are no additional staffing implications		<input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph		<input type="checkbox"/>
<b>Equalities and Human Rights</b>	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications		<input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph		<input type="checkbox"/>
<b>Legal</b>	Power: Local Government Act 2000		
	Other considerations:		
<b>Background Papers:</b>			
<b>Person Originating Report:</b> Sharn Matthews, Monitoring Officer, 01832 742108, smatthews@east-northamptonshire.gov.uk			
<b>Date:</b> 22/6/10			
<b>CFO</b>		<b>MO</b>	<b>CX</b>

(Committee Report Normal Rev. 21)