

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on 15 July 2008 commencing at 7 p.m.

Present: District Cllrs. Dibsdall, Mrs. Dyball, Loney, Mrs. Morris and Mrs. Parkin.

Independent Members Mr. P. Hobbs, Mr. A. Riddell and
Mr. A. Smith

Town/Parish Representatives Mr. J. London and Mr. D. Taylor.

An apology for absence was received from District Cllr. Ryan and
Mrs. Schofield

1. ELECTION OF CHAIRMAN

Resolved: That Mr. Riddell be elected Chairman of the Committee for the
ensuing municipal year.

2. ELECTION OF VICE-CHAIRMAN

Resolved: That Mr. Hobbs be elected Vice-Chairman of the Committee for
the ensuing municipal year.

3. MINUTES OF THE LAST MEETING

The Committee requested that in future the minutes of the previous meeting be
circulated with the agenda papers. The Committee Services Officer undertook to
explore this option.

Resolved: That the minutes of the meeting of the Committee held on
4 March 2008 be agreed and signed by the Chairman as a correct record.

4. DECLARATIONS OF INTEREST

Mr. London declared an interest in any matters pertaining to Kent County Council,
Kent and Medway Fire and Rescue Service, Kent Police and Sevenoaks Town
Council.

5. PUBLICITY FOR THE NEW ARRANGEMENTS IN RESPECT OF ALLEGATIONS OF MEMBER COMPLAINTS (AGENDA ITEM NO. 5 – 15.07.08)

The report advised the Committee as to what had been done to date in relation to
publicising the new filtering arrangements. The District Council's website contained
information on the Code of Conduct, the Complaints Procedure (with associated
Complaints Form) and the Criteria for Local Assessment of Complaints, which had
been revised following further guidance from the Standards Board for England.

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It was noted that the contents adhered closely to the guidance, and the Committee agreed that this was an important feature as this would help to prevent potential challenges to the arrangements.

In relation to the appendices and revised Criteria for Local Assessment of Complaint, the Committee made the following comments:

- The Committee felt that it was important to ensure that the local press understood the new processes. It was agreed that the Communications Team should be asked to issue a press release to include Appendix 4 of the report and offer the opportunity to interview the Chairman of the Committee and Monitoring Officer. The Monitoring Officer advised that the Standards Board had issued a Press Toolkit, and this would be circulated to Committee Members.
- A copy of the Standards Board document as contained in Appendix 3 should be made available in the Reception area of the District Council.
- In respect of Appendix 4 of the report, a correction was required to the contact telephone number provided on the form. It was also suggested that offer of additional language assistance be moved forward. The Monitoring Officer undertook to explore this.

Resolved: That, subject to the comments above, the Committee approve

- a) the publicity that has taken place in advertising the new local assessment of member Complaints as set out in Appendix 1 of the report,
- b) the contents of the webpage entitle 'Code of Conduct and Complaints Against Councillors' as set out in Appendix 2 of the report,
- c) the contents of the 'Complaint Form' as set out at Appendix 4 of the report and
- d) the contents of a revised 'Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct' as set out in the report.

6. SUB-COMMITTEES OF THE STANDARDS BOARD (AGENDA ITEM NO. 6 – 15.07.08)

The report set out the arrangements for Sub-Committees in light of the latest guidance from the Standards Board. The Committee had approved interim arrangements and were asked to finalise these at this meeting.

The Committee noted the report and made the following comments:

- The Committee felt that the proposed membership of Sub-Committees was restrictive as a Parish/Town Council representative would sit on the Sub-Committee only where an allegation involved a Parish/Town Councillor. The Monitoring Officer suggested alternative wording to broaden the Membership and the Committee accepted the revision.

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- It was noted that a dual-hatted member of the District and Parish/Town Councils would not be able to sit on a Sub-Committee as a Parish/Town Council representative.
- With regard to the last bullet point on page 4 of the report, the paragraph should read: 'Where an allegation or complaint is investigated and the Investigator's Report makes a "Finding of No Failure to comply with the Code of Conduct,"

Resolved: That a) the Committee approve the adoption of the Assessment, Review and Determination Hearing Sub-Committees and

b) it be recommended to Council that the composition of Sub-Committees and their Terms of Reference as set out in Appendix 1 of these minutes be incorporated into the Council's Constitution.

7. LOCAL ASSESSMENT OF COMPLAINTS (AGENDA ITEM NO. 7 – 15.07.08)

The Monitoring Officer stated that it was a mandatory duty to put together a Local Assessment Procedure. The proposed procedure relied significantly upon the guidance issued by the Standards Board and an effort had been made to ensure that the procedure was as simple as possible.

The Committee discussed the Procedure as set out in the Appendix to the report and expressed some concern in relation to paragraph 64. It was agreed that this paragraph should be omitted.

Resolved: That it be recommended to Council that

- a) The Local Assessment Procedure as set out in Appendix 2 of these minutes be adopted and incorporated into the Council's Constitution and
- b) The Standards Committee be given delegated authority to make amendments to the Local Assessment Procedure following any amendments to the Standards Committee (England) Regulations 2008 and the guidance produced by the Standards Board for England.

8. NEW COMPLAINTS RECEIVED FROM THE STANDARDS BOARD FOR ENGLAND AND COMPLAINTS DEALT WITH UNDER THE NEW LOCAL FILTERING PROCESS (VERBAL REPORT)

The Monitoring Officer advised the Committee of new complaints which had been received since the last meeting and the status of these complaints.

- One District Council investigation was nearing completion.
- One complaint was being investigated by the Standards Board for England.
- The Assessment Sub-Committee was in the process of hearing its first complaint.

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It was noted that a wave of complaints had not been received since the new arrangements had come into force.

The Committee was reminded that dates for the Assessment Sub-Committee meetings had been set and that Members would be notified when they were not required to attend. The Monitoring Officer requested that Members of the Standards Committee keep these dates firmly fixed in their diaries unless stood down.

9. DIRECTION IN RESPECT OF HEXTABLE AND SWANLEY TOWN COUNCILS ISSUED BY THE STANDARDS BOARD FOR ENGLAND (VERBAL REPORT)

The Monitoring Officer provided a progress report and noted that:

- Officers were making arrangements to move forward with training and conciliation as directed by the Standards Board. The Monitoring Officer and Chairman were trying to be as flexible as possible with regard to the scheduling of these sessions.
- The Clerk for Swanley Town Council was drafting a 'Protocol on Respect', which would help enormously.
- The Monitoring Officer had submitted an interim report to the Standards Board as required by the Direction.

10. APPOINTMENT OF ADDITIONAL INDEPENDENT MEMBER AND TWO PARISH/TOWN COUNCIL REPRESENTATIVES (VERBAL PROGRESS REPORT)

The Monitoring Officer noted that the process to recruit new Members was underway, and the closing date for applications was 31 July 2008. It was noted that this was a difficult time of year to recruit new Members.

The Parish and Town Councils had been contacted, but no responses had been received. It was noted that applications could only be accepted from Parish/Town Councillors and not from clerks. The Monitoring Officer indicated that any assistance that Committee Members could offer in encouraging applications from Parish and Town Councillors would be appreciated.

Information packs had been sent to two potential candidates for Independent Members. However, one of the candidates had been informed that he was ineligible as his wife was an employee of the Council. The Committee asked whether candidates from the previous round of recruitment could be approached. The Monitoring Officer undertook to investigate this.

11. STANDARDS AND ETHICS AWARD (LGC AWARDS)

The Chairman informed the Committee that he had received correspondence from the Standards Board inviting the Council to enter the Standards and Ethics Award

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category. The letter would be circulated to the Leader, Chief Executive and Corporate Resources Director for consideration.

THE MEETING WAS CONCLUDED AT 8.03 P.M.

Chairman

Sub-Committees of the Standards Committee

Composition of the Assessment Sub-Committee and the Review Sub-Committee Relating to Allegation(s) of Member Misconduct, including Composition of the Determination Hearing Sub-Committee:

- One Independent Member (Chair)
- One District Councillor
- One other Member who could be an Independent Member, Parish/Town Member or District Councillor. The Parish/Town Member must not be a District Councillor.
- At least one Parish/Town Council Member who is not a District Councillor must be present when matters relating to Parish and Town Councils are being discussed.
- There is no requirement for fixed membership or a fixed Chairman of the above mentioned Sub-Committees. Preferably such members will be chosen on a rotational basis from the pool of members on the Standards Committee.
- The Chairman of the above mentioned Sub-Committees is given authority to make a substitute or to vary the hearing panel where difficult circumstances are envisaged to minimise the risk of conflicts of interest and ensure fairness for all parties.
- The quorum for a meeting of the above mentioned Sub-Committees will, for the duration of the meeting, be three members.
- Decisions of the above mentioned Sub-Committees will, be taken by majority vote.
- Members who are involved in the decision making on the initial assessment of a complaint must not take part in the review of that decision.
- Members who have taken part in the initial assessment of a complaint even on review may take part in any subsequent determination hearing as the initial or review stages make no findings of fact.

Terms of Reference of the Assessment Sub-Committee and Review Sub-Committee Relating to Allegation(s) of Member Misconduct including Terms of Reference of the Determination Hearing Sub-Committee

- The Assessment Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed to comply with the Authority's Code of Conduct.

- The public's right is to complain to the local Standards Committee and not to the Standards Board for England. A complaint can be made to the Monitoring Officer, Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG. Further details can be found on the Council's website along with a Complaint Form.
- Upon receipt of each allegation the Assessment Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
 - a) refer the allegation to the Monitoring Officer for investigation
 - b) refer the allegation to the Standards Committee of another relevant authority
 - c) refer the allegation to the Standards Board for England
 - d) take no action in respect of the complaint
 - e) refer the allegation to the Monitoring Officer for action short of formal investigation such as training or conciliation or such other steps (not including an investigation), as appear appropriate
- The Complainant has a right of review over the Assessment Sub-Committee's decision to take no action.
- The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee. In addition, the Review Sub-Committee may decide that the review will not be granted in the circumstances.
- Where the Complainant makes further or new information of any significance available in support of their complaint that changes the nature of or gives rise to a potential 'new' complaint and the information submitted is not merely a repeat complaint, the Review Sub-Committee will consider if it is more appropriate to refer the matter back to the Assessment Sub-Committee as a 'new complaint'. In the circumstances, the decision arrived at by the Review Sub-Committee will be 'that the review request not be granted'.
- The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint either through investigation or some other action. The Assessment Sub-Committee and Review Sub-Committee make no findings of fact. If the Assessment Sub-Committee refers the complaint to the Monitoring Officer for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the complaint. It simply means that the Sub-Committee

believes the alleged conduct, if proven, may amount to a failure by the Subject Member, to comply with the Code of Conduct and that some action needs to be taken in response to the complaint.

- The Assessment Sub-Committee and Review Sub-Committee also have the power to receive a Monitoring Officer's Report within 3 months of receipt of the Assessment Sub-Committee's or Review Sub-Committee's Direction to take other action. If the Assessment Sub-Committee or Review Sub-Committee is not satisfied with the action specified or proposed in the Monitoring Officer's Report, it will direct the Monitoring Officer accordingly.
- Where an allegation or complaint is investigated and there is a "Finding of failure to comply with the Code of Conduct" the Determination Hearing Sub-Committee will hear and determine the allegation/complaint that a District Councillor, Parish or Town Councillor or Co-opted Member has failed or may have failed to comply with the Code of Conduct.
- Where an allegation or complaint is investigated and the Investigator's report makes a "Finding of no Failure to Comply with the Code of Conduct", a meeting of the Determination Hearing Sub-Committee will be convened to consider the "Finding of no Failure to Comply with the Code of Conduct" and decide whether to agree. If the Determination Hearing Sub-Committee accepts the finding of no failure, this will be a 'finding of acceptance'. Where the Determination Hearing Sub-Committee decides that on the balance of probability there is a case to answer the Determination Hearing Sub-Committee will arrange for a formal hearing to be convened and will hear and determine the case.
- The Assessment Sub-Committee shall agree a programme of meetings including one meeting per calendar month, but shall only meet where one or more allegation has been received which require to be assessed at that meeting or when the Monitoring Officer wishes to submit a Report following a Direction given by the Assessment Sub-Committee or Review Sub-Committee to take other action.
- The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Assessment Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.
- The Determination Hearing Sub-Committee shall meet as and when required to enable it to determine whether a District Councillor, Parish or Town Councillor or Co-opted Member has failed to comply with the Code of Conduct

Procedure for Local Assessment of Complaints

Receiving Complaints

- 1 Complaints will be in writing, addressed to the Monitoring Officer c/o The Standards Committee, Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG. The Complaint Form set out on the Council's website can be used or otherwise the complaint can be sent by letter, e-mail or fax setting out the information referred to in the Complaint Form.
- 2 The Assessment Sub-Committee will deal only with complaints about the alleged behaviour and conduct of the Subject Member. It will not deal with complaints about any of the Authority's departments, services or matters not covered by the Code of Conduct.

Anonymous Complaints

- 3 An anonymous complaint will only be accepted by the Assessment Sub-Committee, providing it is accompanied by independent evidence and providing that the evidence substantiates or indicates the exceptionally serious or significant nature of the complaint.

The Monitoring Officer's role on receipt of written complaints

- 4 If the complaint is not about a Subject Member's conduct, then the Monitoring Officer will not submit the complaint to the Assessment Sub-Committee, but will decide whether the complaint is of such a nature as to be dealt with through other channels and refer the complainant accordingly.
- 5 The Complainant may, in the first instance, raise their concerns with the Monitoring Officer verbally. In such cases, the Monitoring Officer will ascertain whether they want to formally submit their complaint in writing to the Assessment Sub-Committee.
- 6 Before referring the complaint to the Assessment Sub-Committee, the Monitoring Officer will write to the Complainant acknowledging receipt of their complaint and unless the Complainant has asked for their name to be kept confidential and the Monitoring Officer being satisfied that no restrictions apply on disclosure under Section 63 of the Local Government Act 2000 and that there are no Data Protection Act 1998 implications, the Monitoring Officer will:
 - write to the Subject Member stating:

- a) that a complaint has been made against them;
- b) the name of the Complainant;
- c) the relevant paragraphs of the Code of Conduct it is alleged they have breached;
- d) that the complaint will be considered by the Assessment Sub-Committee and the date of this meeting if known; and
- e) that a written summary of the complaint may be provided to them by the Assessment Sub-Committee.

Presentation to the Assessment Sub-Committee Meeting

- 7 The Monitoring Officer will present to the Assessment Sub-Committee, the Complainant's written complaint and any supporting documents comprising their complaint.
- 8 Proceedings of the Assessment Sub-Committee will take place in confidential session unless the Assessment Sub-Committee decide otherwise.
- 9 The Monitoring Officer will prepare a short summary of the key aspects of the complaint including paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the Complainant has identified.
- 10 The Monitoring Officer will supply the Assessment Sub-Committee with any other information that has been obtained by the Monitoring Officer. Such other information may comprise:
 - obtaining a copy of the Subject Member's declaration of acceptance of office and undertaking to observe the Code of Conduct;
 - minutes of meetings;
 - copy of the Subject Member's register of interests;
 - companies House or Land Registry information;
 - other easily obtainable documents.
- 11 If the Monitoring Officer is unable to understand the information submitted by the Complainant clarification of the complaint can be sought from the Complainant.
- 12 Pre-assessment enquiries will not be carried out in such a way as to amount to an investigation, that is, interviewing potential witnesses.

Assessment Sub-Committee and Review Sub-Committee

- 13 The composition and terms of reference of the Assessment Sub-Committee and Review Sub-Committee are set out in the Council's Constitution.

Closed Meetings

- 14 The deliberations of the Assessment Sub-Committee and the Review Sub-Committee are not subject to the following access to information rules in respect of local government committees:
- notices of meetings;
 - circulation of agendas and documents;
 - public access to meetings;
 - validity of the proceedings.

The sub-Committees may be supported by Officers.

- 15 The initial assessment of the complaint by the Assessment Sub-Committee and the review by the Review Sub-Committee of the decision of the Assessment Sub-Committee to take no action on the complaint, will be conducted in 'closed' session. The Complainant and the Subject Member will not be permitted to attend the deliberations of the Sub-Committees.

Time limits for decision making

- 16 As a guide the Assessment Sub-Committee meets once a month and so will endeavour to take a decision on the complaint within 20 working days of its receipt. Meetings will be held in the day time.
- 17 The Review Sub-Committee must conclude the review of the Assessment Sub-Committee's decision to take no action, within three months of the receipt of the Complainant's request for a review. However, the Sub-Committee will aim to complete the review within an average of 20 working days from receipt of the request.

Decision making

- 18 The Assessment Sub-Committee may reach one of the following decisions:
- refer the complaint to the Monitoring Officer for investigation;

- refer the complaint to another authority's standards committee;
 - refer the complaint to the Standards Board for England;
 - take no action in respect of the complaint
 - refer the complaint to the Monitoring Officer for action other than investigation that is conciliation, apology, training or any other appropriate action.
- 19 The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee. In addition the Review Sub-Committee may decide that the review request will not be granted.
- 20 The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint either through investigation or some other action. The Assessment Sub-Committee and Review Sub-Committee make no findings of fact. If the Assessment Sub-Committee or Review Sub-Committee refers the complaint to the Monitoring Officer for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the complaint. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure by the Subject Member, to comply with the Code of Conduct and that some action needs to be taken in response to the complaint.

Review of Assessment Sub-Committee's decision

- 21 The Complainant has a right of review over the Assessment Sub-Committee's decision to take no action.

Conflict of Interest

- 22 Assessment Sub-Committee Members cannot participate in the decision making of the Review Sub-Committee but may participate in the decision making of the Determination Hearing Panel (Sub-Committee).
- 23 The Review Sub-Committee Members must be independent of the Assessment Sub-Committee's decision but may participate in the decision making of the Determination Hearing Sub-Committee.
- 24 Standards Committee and Sub-Committee Members should consider not only whether they have a personal and prejudicial interest as set out in the Authority's Code of Conduct, but also, whether their connection to, relationship with or knowledge of the Subject Member could be considered to be biased or give a reasonable member of the public the impression that the decision could be partial.

- 25 Officers should also take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint. The Monitoring Officer acts as the main adviser to the Standards Committee and its Sub-Committees, unless she has a conflict of interest in a matter that would prevent her from performing the role independently.
- 26 The Kent Monitoring Officer Protocol for Mutual Assistance provides for reciprocal Officer arrangements with neighbouring authorities, in case of conflict. This is currently being revised.

Assessment Process

- 27 The Assessment Sub-Committee must deal with each complaint, on a case-by-case basis on its own merits, having regard to any relevant Standard Board for England's guidance, advice from the Monitoring Officer and any relevant criteria and factors that the Standards Committee may determine from time to time.
- 28 Having assessed the complaint, the Assessment Sub-Committee must take one of the decisions referred to in paragraph 18 of this Procedure.
- 29 The Assessment Sub-Committee must record the main points it considered, its conclusions and the reasons for its conclusion.

Considering whether to notify the Subject Member of the complaint – written summary

- 30 Only the Standards Committee and its Sub-Committees have the power, under the direction of the Monitoring Officer, to provide a written summary of the complaint, to the Subject Member.
- 31 The Assessment Sub-Committee must decide on the advice of the Monitoring Officer whether a written summary of the complaint should be provided to the Subject Member. The Sub-Committee will consider the Complainant's request for confidentiality and/or whether providing a summary or any details of the complaint would be contrary to the public interest or would prejudice any person's ability to investigate the complaint or take other action.
- 32 Where the Assessment Sub-Committee decides that a written summary of the complaint can be provided to the Subject Member, this must be sent to the Subject Member with the Decision Notice and in practice the summary will normally be included in the Decision Notice.
- 33 Where the Assessment Sub-Committee has reason to believe that producing a written summary is not in the public interest or would prejudice the investigation of the complaint or the taking of other action, the written summary will not be released until the investigation or other

action process begins, at which time, the written summary will be sent to the Subject Member and the Complainant and if applicable the Clerk to the Parish or Town Council.

- 34 The Sub-Committee may on applying the public interest test provide limited information on the complaint.

Notification of the decision and its publication

- 35 Within 5 working days of making the decision, the Assessment Sub-Committee will provide written notification of its decision and the reasons for the decision in the form of a Decision Notice together with the written summary if applicable to the Complainant, the Subject Member and if applicable the Clerk to the Parish or Town Council.
- 36 If the Assessment Sub-Committee decides to refer the complaint to the Monitoring Officer for investigation or other action or to the Board, the Decision Notice will explain the reasons for making the particular referral.
- 37 Once the Decision Notice has been communicated to the parties in accordance with the provision of this Procedure the District Council will publish the Decision Notice, so that it is available for public inspection at the District Council's offices for a period of 6 years from the date of the Assessment Sub-Committee meeting. The written summary will not be published until it is given to the Subject Member and other parties referred to in this Procedure.

Review Process

- 38 The Complainant is entitled to request a review of the Assessment Sub-Committee's decision to take no action. The request for a review will be in writing, supported by reasons.
- 39 Requests for reviews will be in writing received by letter, email or fax, addressed to the Monitoring Officer c/o the Review Sub-Committee. The request for a review must be submitted by the Complainant within 30 days following their receipt of the Assessment Sub-Committee's decision.
- 40 The Complainant only has a right to review if the Assessment Sub-Committee decides not to take any action on a complaint.
- 41 A review may be more appropriate where the Complainant wishes to challenge that:
- not enough emphasis has been given by the Assessment Sub-Committee to a particular aspect of their complaint;
 - the Assessment Sub-Committee has failed to follow criteria referred

to in this Procedure or any criteria published by the Board;

- the Assessment Sub-Committee has made an error in procedure.

Review Notification

- 42 On behalf of the Review Sub-Committee, the Monitoring Officer will notify the Subject Member that a request for a review of the Assessment Sub-Committee's decision has been received. If applicable the Parish or Town Clerk will also be notified.
- 43 The Review Sub-Committee must deal with each request for a review, on a case by case basis, on its own merits, having regard to the relevant guidance produced by the Standards Board for England, advice from the Monitoring Officer and any relevant criteria and factors that the Standards Committee may determine from time to time.

Agenda for the Review Sub-Committee meeting

- 44 The Monitoring Officer will present to the Review Sub-Committee the Complainant's written request for a review and any supporting documents comprising their review request in confidence.
- 45 Having reviewed the Assessment Sub-Committee's decision to take no action, the Review Sub-Committee must take one of the decisions referred to in paragraph 18 of this Procedure.
- 46 Where the Complainant makes further or new information of any significance available in support of their complaint that changes the nature of or gives rise to a potential 'new' complaint and the information submitted is not merely a repeat complaint, the Review Sub-Committee will consider if it is more appropriate to refer the matter back to the Assessment Sub-Committee as a 'new complaint'. In the circumstances, the decision arrived at by the Review Sub-Committee will be 'that the review request not be granted'.
- 47 The Review Sub-Committee must record the main points it considered, its conclusion and the reasons for its conclusion.

Concluding the Review

- 48 The Review Sub-Committee must conclude the review of the Assessment Sub-Committee's decision to take no action, within three months of the receipt of the Complainant's request for a review. However, the Sub-Committee will aim to complete the review within an average of 20 working days from receipt of the request.

Notification of the Decision and its Publication

- 49 Where the Review Sub-Committee decides to uphold the Assessment Sub-Committee's decision to take no action, the Decision Notice will detail the decision and the reasons for the decision. The Decision Notice will be sent to the Subject Member, the Complainant and if applicable, the Clerk to the Parish or Town Council.
- 50 Where the Review Sub-Committee decides to refer the complaint to the Monitoring Officer for investigation or other action the Decision Notice will detail why the particular referral has been made and will include a summary of the complaint. The Decision Notice will be sent to the Subject Member, the Complainant and if applicable the Clerk to the Parish or Town Council.
- 51 No findings of fact are made by the Review Sub-Committee.
- 52 At no stage in the process, will the Decision Notice and/or written summary of the complaint, be sent to other interested parties, before being sent to the Subject Member.
- 53 Where the Review Sub-Committee decides to uphold the Assessment Sub-Committee's decision to take no action the Complainant cannot pursue the matter any further with the Standards Committee.

Criteria for Assessment

- 54 The Criteria for Assessment is set out on the Council's website. Alternatively this can be obtained by writing to the Monitoring Officer either by letter, e-mail or fax.

Confidentiality Requests

- 55 The Complainant may ask for their name and details of their complaint to be kept confidential at the initial assessment stage only. Requests for confidentiality will only be granted in exceptional circumstances, at the discretion of the Assessment Sub-Committee, on the advice of the Monitoring Officer and if the Sub-Committee has reason to believe that:
- the Complainant is either vulnerable or at risk of threat, harm or reprisal;
 - the Complainant may suffer intimidation or be victimised or harassed;
 - the Complainant works closely with the person they are complaining about and they are afraid of the consequences such as fear of losing their employment;

- the Complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence would need to be supplied);
- the Complainant may receive less favourable treatment because of the seniority of the person they are complaining about;
- early disclosure of the complaint may lead to evidence being compromised or destroyed;
- early disclosure of the complaint may impede or prejudice the investigation;
- early disclosure of the complaint would not be in the public interest.

Mere embarrassment is not a ground for the Complainant requesting that their name or complaint details be kept confidential.

- 56 If the Complainant's request for confidentiality is refused by the Assessment Sub-Committee, the Sub-Committee will instruct the Monitoring Officer to offer to the Complainant the option to withdraw their complaint.
- 57 In certain circumstances the public interest in proceeding with the investigation or other action outweighs the Complainant's request for confidentiality and the Assessment Sub-Committee may have no choice on the advice of the Monitoring Officer than to disclose the Complainant's name and complaint details, even if the Complainant has expressly asked that confidentiality be maintained.
- 58 The Assessment Sub-Committee when applying the public interest test may at its discretion, provide limited information on the complaint to the Subject Member and if applicable to the Clerk to the relevant Parish or Town Council.
- 59 In considering the public interest test, the Assessment Sub-Committee must take account of any guidance produced by the Board, any advice from the Monitoring Officer or the Ethical Standards Officer of the Standards Board for England.

Referrals to the Monitoring Officer For Investigation

- 60 The Assessment Sub-Committee or the Review Sub-Committee will refer the complaint to the Monitoring Officer for investigation when:
- it is serious enough, if proven, to justify the range of sanctions available to the Standards Committee or the Adjudication Panel for

England;

- the subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, short of investigation and in considering this, the Assessment Sub-Committee or the Review Sub-Committee will take into account the time that has passed since the alleged conduct occurred.

Referrals to the Monitoring Officer for Other Action

- 61 The suitability of the Assessment Sub-Committee or the Review Sub-Committee referring the complaint to the Monitoring Officer 'for other action', will be dependant on the nature of the complaint and this may be the simplest and most cost effective way of resolving the issues.
- 62 'Other action' is an alternative to investigation and may be appropriate where the Subject Member has a poor understanding of the Code of Conduct and/or related Authority procedures, or where there is a breakdown in relationships.
- 63 The Assessment Sub-Committee or Review Sub-Committee must consult with the Monitoring Officer before reaching a decision to instruct the Monitoring Officer to take other action. The Monitoring Officer is required to comply with the Sub-Committees' or Ethical Standards Officer of the Standards Board for England's directions.
- 64 Within 5 working days of the Assessment Sub-Committee's or Review Sub-Committee's decision to instruct the Monitoring Officer to take other action, or the Standards Board for England's direction to 'take other steps', the Monitoring Officer will inform the parties involved in writing, of the Sub-Committee's decision or the Standards Board for England's direction and the parties will be required to confirm in writing, that they will co-operate with the process and the Monitoring Officer will outline:
- what is being proposed;
 - why it is being proposed;
 - why co-operation is essential;
 - what the Sub-Committee hopes to achieve;
 - the time scales;

The following are some examples of alternatives to investigation:

- arranging the Subject Member to attend a training course;

- arrange for a process of conciliation;
- arranging for an apology;
- other steps to be taken as appear appropriate to the Assessment or Review Sub-Committees.

Monitoring Officer Power to Refer Back to the Assessment Sub-Committee

- 65 Where a matter has been referred to the Monitoring Officer by the Assessment Sub-Committee for action other than investigation, the Monitoring Officer may refer the matter back to the Assessment Sub-Committee if as a result of new evidence or information, the Monitoring Officer is of the opinion that:
- the matter is materially more serious or less serious than may have seemed apparent when the Assessment Sub-Committee made its decision;
 - the Assessment Sub-Committee would not have decided to refer to the Monitoring Officer for action other than investigation, had it been aware of the new evidence or information; or
 - the Subject Member has died, is seriously ill, or has resigned from the Authority and the Monitoring Officer is of the opinion that, in the circumstances, it is no longer appropriate to continue with the direction to take other action.
- 66 In forming the opinion to refer back to the Assessment Sub-Committee, the Monitoring Officer may take account of:
- the failure of any person to co-operate with the investigation;
 - an allegation that the Subject Member has engaged in a further breach of the Code of Conduct;
 - an allegation that another Member has engaged in a related breach of the Code of Conduct.
- 67 The consideration by the Assessment Sub-Committee of a referral back by the Monitoring Officer, will be in closed session.
- 68 The Assessment Sub-Committee will consider the referral back and may take one of the decisions set out in paragraph 18 and may also direct that the matter will not be referred back a further time.

Monitoring Officer's Report

- 69 Within 3 months of receipt of the Assessment Sub-Committee's or Review Sub-Committee's direction to take other action or as soon as reasonably practicable, the Monitoring Officer will submit a report to the Standards Committee or a Sub-Committee of the Standards Committee including the Determination Hearing Sub-Committee detailing the other action taken to comply with the direction or what action is proposed. The access to information rules in respect of local government committees, will apply.
- 70 If the Standards Committee or a Sub-Committees of the Standards Committee including the Determination Hearing Sub-Committee is not satisfied with the action specified or proposed in the Monitoring Officer's report, it will direct the Monitoring Officer accordingly.
- 71 If the Standards Committee or a Sub-Committee of the Standards Committee including the Determination Hearing Sub-Committee is satisfied with the action taken or proposed, the Monitoring Officer will give written notice to:
- the Subject Member;
 - the Complainant;
 - the Clerk to the relevant Parish/Town Council.

Decision to Take no Action on the Complaint

- 72 The Assessment Sub-Committee or Review Sub-Committee may decide to take no action on the complaint and in so deciding, will have regard to the "Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct" set out on the District Council's website.
- 73 Where no potential breach of the Code of Conduct is disclosed by the complaint, no action can be taken by the Assessment Sub-Committee or Review Sub-Committee on it. Therefore, the matter of referral to the Monitoring Officer for investigation or other action, does not arise.

Referral of the Complaint to the Standards Board for England

- 74 In most cases, the Assessment Sub-Committee and Review Sub-Committee will be able to deal with alleged Member misconduct complaints. However, in some instances there may be public interest considerations which make it difficult for the Sub-Committees to deal with the issues fairly and speedily and as such the Sub-Committees may wish to refer the complaint to the Standards Board for England to be investigated by an Ethical Standards Officer. Examples of instances when the Sub-Committee may decide to refer the complaint to the Board are set

out in the “Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct” set out on the District Council’s website. However, the list is not exhaustive and there may be other reasons for referral to the Standards Board for England.

- 75 The Standards Board for England may decline to investigate the complaint and may refer the complaint back to the Standards Committee.
- 76 Within 3 months of receipt of the Ethical Standards Officer’s direction to require the Monitoring Officer to ‘take other steps’, the Monitoring Officer will submit a written report to the Ethical Standards Officer, detailing the other action taken to comply with the direction or what action is proposed.
- 77 If the Ethical Standards Officer is satisfied with the action taken or proposed, the Monitoring Officer will give written notice to:
- the Subject Member;
 - the Complainant;
 - the Clerk.
- 78 If the Ethical Standards Officer is not satisfied with the action specified or proposed, the Ethical Standards Officer may require the Monitoring Officer to arrange for a statement to be published in at least one newspaper circulating in the District giving:
- details of the Ethical Standards Officer’s direction;
 - the Ethical Standards Officer’s reasons for being dissatisfied;
 - the Monitoring Officer’s response to the Ethical Standards Officer’s reasons for dissatisfaction.
- 79 In exceptional circumstances, the Standards Board England may decide to take no further action on a complaint referred to it. This is likely to be where the circumstances have changed so much, that there would be little benefit in an investigation or other action, or because the Standards Board for England considers that the complaint does not disclose a breach of the Code of Conduct.
- 80 There is no appeal mechanism against the Board’s referral back.

Referral of the Complaint to Another Authority’s Standards Committee

- 81 If the complaint is about a Subject Member who is no longer a District or Parish or Town Councillor or Co-opted Member, but who is a Member of another authority, the Assessment Sub-Committee or Review Sub-

Committee will instruct the Monitoring Officer to refer the complaint to the Standards Committee of that other authority. The referral will be made within 5 working days of the Sub-Committee's decision.

Withdrawing a Complaint

- 82 Once the Complainant has lodged their complaint, they may only withdraw it with the agreement of the Assessment Sub-Committee. The Sub-Committee will either grant or refuse the request against the following considerations:
- 83 Does the public interest in taking action on the complaint outweigh the Complainant's desire to withdraw the complaint?
- 84 Is the complaint such that action can be taken on it? Such as an investigation without the Complainant's participation?
- 85 Is there an identifiable reason for the Complainant requesting to withdraw their complaint? Such as is there information to suggest that the Complainant may have been pressurised by the person they are complaining of or an associate of theirs to withdraw the complaint?

Vexatious Complaints and Complainants

- 86 If a Complainant behaves in a way that is unreasonably persistent and or vexatious, the Monitoring Officer can apply the Council's Policy on Vexatious Complaints contained within the Council's general Complaints Process.

Multiple Complaints About the Same Matter

- 87 The Assessment Sub-Committee may receive a number of complaints from different complainants about the same matter. To ensure that these are dealt with in a manner that is a practical use of time and resources, the Monitoring Officer will present a report and recommendation that draws together all the relevant information and which highlights any substantively different or contradictory information. However, the Assessment Sub-Committee must still reach a decision on each individual complaint and follow the usual notification and publication rules set out in this Procedure.

Mediation and Conciliation

- 88 Mediation is a facilitative process in which disputing parties engage the assistance of an impartial third party, the mediator, who helps them to try to arrive at an agreed resolution of their dispute. The mediator has no authority to make any decisions that are binding on the parties to the dispute and has no power to impose an outcome on disputing parties. The mediator uses certain procedures, techniques and skills to help the

parties to negotiate an agreed resolution of their dispute.

- 89 Contact may be made initially with each party separately or where a meeting is arranged between those in dispute to draw up a joint action plan.
- 90 The parties, rather than the mediator, decide on the terms of the settlement and it is therefore essential that all parties wish to resolve the dispute. The process is completely voluntary, so a party cannot be forced to take part in mediation and can choose to withdraw from the process at any time although the Monitoring Officer will seek the agreement of the parties that they will co-operate with the mediation process.
- 91 Conciliation is a procedure like mediation, but the third party, the conciliator takes a more interventionist role in bringing the parties together and in suggesting possible solutions to help achieve a settlement.
- 92 The difference between conciliation and mediation lies in the fact that the conciliator can make proposals for settlement while a mediator would not do so but would merely facilitate a settlement between the parties.
- 93 Any conciliation or mediation process will have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter.
- 94 Any decisions reached regarding future behaviour of the Subject Member and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.

Equalities

Sevenoaks District Council aims to eliminate discrimination in respect of sex, colour, race, nationality, ethnic groups, regional or national origin, age, marital status, disability, political or religious belief, sexuality or class. The Procedure is free from bias or discrimination and the aim is that those involved in the process are treated fairly and with respect.

