

## STANDARDS COMMITTEE – 15 JULY 2008

### PUBLICITY FOR THE NEW ARRANGMENTS IN RESPECT OF ALLEGATIONS OF MEMBER COMPLAINTS

Report of the: Monitoring Officer

Status: For information, discussion and recommendation

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**Executive Summary:** The Committee is asked to consider the publicity that has taken place to date in relation to the new local assessment of allegations of breaches of the Code of Conduct by Members and to make recommendations for future publicity.

The Committee is also asked to endorse the contents of the webpage entitled "Code of conduct and complaints against councillors" as well as the Complaints Form making suggestions for possible improvement.

Lastly, the Committee is asked to consider and endorse the revised "Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct" following receipt of guidance now received from the Standards Board for England (the Board)

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**This report supports the Key Aim of** effective management of Council resources.

**Portfolio Holder** Cllr. Loney

**Head of Service** Head of Legal and Democratic Services – Christine Nuttall

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**Recommendation:** It is RESOLVED that the Committee note and consider the contents of this report and:

- a) approve the publicity that has taken place in advertising the new local assessment of Member Complaints set out at Appendix 1 to this report and come forward with ideas for future publicity;
  - b) approve the contents of the webpage entitled "Code of conduct and complaints against Councillors" set out at Appendix 2 to this report making suggestions for possible improvement;
  - c) approve the contents of the "Complaint Form" set out at Appendix 4 to this report making suggestions for possible improvement;
  - d) approve the contents of a revised "Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct" set out in italics within this report following the receipt of guidance from the Board.
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## **Background**

- 1 The Board has produced a set of publications that can be viewed on the Board's website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk) to enable local authorities to develop their own procedures to fulfil their legislative requirements. The legislation prescribes that local authorities must:
  - Publicise the new complaints system
  - Set up procedures for submission of complaints
  - Develop criteria against which it assesses new complaints.

## **Publicity**

- 2 On the 4th March 2008 this Committee gave the Monitoring Officer authorisation to prepare information on the local assessment process and to organise ways in which the public could be informed of the new arrangements.
- 3 The complaints system may be published 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
- 4 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 of Conduct complaints and what the process entails. If an authority is responsible for Parish and Town Councils, the notice should make this clear.
- 5 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.
- 6 Publication of the new system was effected in the following ways:
  - A Public Notice was published in the Dartford and Swanley Times and the Sevenoaks Chronicle on the 24<sup>th</sup> January 2008 setting out details of the anticipated new arrangements for a locally based complaints system for handling the initial assessment of misconduct allegations against Members and the consultation process that was taking place. This informed the public on how to view the consultation paper and how to comment on the proposals.
  - A Public Notice was published in the Dartford and Swanley Times on the 14<sup>th</sup> May 2008 and in the Sevenoaks Chronicle on the 15<sup>th</sup> May 2008 setting out details of the new local Code of Conduct Complaints Process and how the public can make a complaint.

**Item No. 5**

- In the Spring 2008 edition of “In-Shape” staff were informed about the new Code of Conduct and changes to the way Member complaints will be handled locally.
- On the 21<sup>st</sup> July 2008 a summer publication of “In-Shape” will inform residents and businesses of the new procedures and how to make a complaint.

Details of the publicity is set out at Appendix 1 to this report.

- 7 A website page was set up within the week of the 12 May 2008 entitled "Code of Conduct and complaints against councillors". This website page explains the new local assessment procedure and how to make a complaint about the conduct of a Member of Sevenoaks District Council or a Member of one of the Town or Parish Councils within the District in that they can write a letter or e-mail the District Council's Monitoring Officer with their complaint or complete a Member Code of Conduct Complaint Form. The e-mail address for complaints is [members.conduct@sevenoaks.gov.uk](mailto:members.conduct@sevenoaks.gov.uk). This e-mail box is checked on a daily basis for any incoming complaints that may need to be processed.
- 8 The Standards Committee must continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the Standards Committees needs to alert the public to any changes in such arrangements.
- 9 This Committee is asked to consider the advertising to date and make suggestions for future publicity. In addition the Committee is asked to endorse the contents of the Council's webpage entitled “Code of Conduct and complaints against councillors” making suggestions for possible improvement. This webpage is set out at Appendix 2 to this report.

**The Complaint Form**

- 10 On the 4th March 2008 this Committee gave the Monitoring Officer authorisation to develop procedures for the handling of complaints which would include standard documentation.
- 11 The Board has produced a publication entitled “Making a Complaint” which is set out at Appendix 3 to this report.
- 12 The Complaint Form that this Council is using can be assessed from the Council's webpage entitled “Code of Conduct and complaints against councillors” and is set out at Appendix 4 to this report. It is modelled on the standard complaint form produced by the Board. The Complaint Form has already been used for the first complaint received and appears to be working well. If used it should help to process complaints faster as the form sets out all the information that should be required by the Sub-Committee.

- 13 The Board's guidance states that the Council may choose to either integrate the process of dealing with alleged Member misconduct complaints into its existing complaints framework or develop a separate process. The Monitoring Officer advises on the development of a separate complaints system for Member Code of Conduct Complaints and the Committee is asked to endorse the contents of the Complaint Form for this purpose.

### **Criteria for Assessing Member Complaints**

- 14 On the 4th March 2008 this Committee approved a criteria for assessing Member complaints on the basis that such criteria may latter be amended in line with guidance when received from the Board. This guidance has now been received and is incorporated into the revised "Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct" set out below in italics:

*Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct*

#### *The Jurisdiction 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.*

#### *The Sub-Committee or Review Sub-Committee does not refer cases if:*

- *It is malicious, relatively, minor or tit for tat.*
- *The same, or a substantially similar complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanction available to the Standards Committee.*
- *The complaint concerns acts carried out in the Members' private life, when they are not carrying out the work of the authority or have not misused their position as a Member.*

**Item No. 5**

- *It appears that the complaint is really about dissatisfaction with a council decision.*
- *There is not enough information currently available to justify a decision to refer the matter for investigation.*
- *The complaint is about a deceased person.*
- *The complainant is unreasonably persistent, malicious and/or vexatious, unless the complaint raises serious matters*
- *The complaint is anonymous unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant.*

*The Assessment Sub-Committee can when deciding whether to refer a matter take the following decision:*

- *Take no action*
- *Investigation*
- *Referral of complaint to the Board*
- *Referring the complaint to the Sub-Committee of another authority to consider (where the Member is no longer a Member of our authority but is a Member of another authority)*
- *Arrange for the subject member to attend a training course*
- *Arrange for the subject member and the complainant to engage in a process of conciliation*
- *Arrange for such other steps (not including an investigation) as appear appropriate*

*In making the above decision the following factors will be taken into account:*

- *Is the case suitable for local investigation*
- *Is it sufficiently serious to be investigated*
- *Would an investigation serve a useful purpose*
- *Have the circumstances changed so much that there would be little benefit arising from an investigation or other action*
- *Is it serious enough to warrant a sanction*

**Item No. 5**

- *Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and are there no other avenues left to deal with it except investigation*
- *The time that has passed since the alleged conduct occurred.*
- *Is this a case where alternative action such as training or conciliation would be more appropriate*
- *Would an apology be appropriate*

Criteria for Referral to the Board

- *It involves the Leadership of the Council or the Opposition*
- *Complaints are from the Chief Executive, Chief Financial Officer and Monitoring Officer*
- *There are instances where a key person or a large number of key people are conflicted out and there is a risk of successful judicial review*
- *There are instances where there has been national attention, or where the Standards Committee feel that the matter turns on an important point of interpretation of the Code (a test case)*
- *There is a significant conflict of interest*

**Options (and Reasons for the Recommendation)**

- 15 The Committee is asked to consider and recommend any additional publicity on the new assessment process as well as improvements to the contents of the webpage including the material contained therein as set out above.

**Key Implications**

Financial

- 16 The cost of all four public notices was £326 . Additional publicity by way of press releases would not have a financial implication. In addition changes to the website page and the material contained therein would not incur a direct cost.

Legal, Human Rights etc.

- 17 The Board's guidance must be taken into account by Standards Committees and Monitoring Officers and the Standards Committee (England) Regulations 2008 makes this mandatory.

**Item No. 5**

Resource (non-financial)

- 18 The only non-financial resource implication associated with the creation of additional publicity for advertising the new processes and changes to the website page and material therein is the time spent by officers.

Value For Money

- 19 Efforts are being made to try and keep the expenditure associated with the requirements of the new procedures within existing budgets.

Equality

- 20 No one must be disadvantaged in their ability to pursue an allegation of misconduct against a Member and so publicity is essential to alert the public to the new arrangements.
- 21 The public need to be clear about how to complain and the criteria which will be applied to a complaint.

**Conclusions**

- 22 This report aims to give this Committee the opportunity to assess the adequacy of the publicity to date in respect of the new systems for local assessment of allegations of Member misconduct and to make suggestions for further publicity.
- 23 In addition the Committee is asked to consider the layout of the webpage as well as the contents of the “Complaint Form” and “Criteria for Local Assessment of Complaints Against Members in Respect of the Code of Conduct”.

**Risk Assessment Statement**

- 24 This authority will be failing in its statutory duty if it did not have regard to the guidance produced by the board. A failure to advertise the new procedures and create a system whereby members of the public can complain with confidence could result in this authority losing the power to carry out local assessment of complaints. This would have a serious effect upon the reputation of this authority to govern its own ethical agenda

**Sources of Information:** Local Assessment of Complaints

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**Corporate Resources Director**

