

## STANDARDS COMMITTEE – 13<sup>TH</sup> NOVEMBER 2008

### PROCEDURE FOR REFERRALS TO THE MONITORING OFFICER FOR INVESTIGATION AND DETERMINATION

Report of the: Monitoring Officer

Status: For consideration and decision

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**Executive Summary:** New Legislation along with mandatory Guidance produced by the Standards Board for England sets out how the new locally based system for the assessment of alleged complaints in relation to breaches of the Code of Conduct by Members will operate. Local authorities are obliged under the guidance to develop effective procedures to fulfil their new role and this Committee is asked to consider and approve the Procedure for Referrals to the Monitoring Officer for Investigation and Determination set out in the Appendix to this report.

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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 be Recommended to Council that:

- a) the Procedure for Referrals to the Monitoring Officer for Investigation and Determination set out in the Appendix to this report be adopted and incorporated into the Council's Constitution
  - b) the Standards Committee be given delegated authority to make amendments to the Procedure for Referrals to the Monitoring Officer for Investigation and Determination following any amendments to the Local Government and Public Involvement In Health Act 2007, Standards Committee (England) Regulations 2008 and the Guidance produced by the Standards Board for England.
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### Background

- 1 The long awaited Standards Committee (England) Regulations 2008 (the Regulations) came into force on 8<sup>th</sup> May 2008. The Regulations set out details of the new local standards framework including local assessment and referral for Investigation and Determination of complaints that a Member may have breached the Code of Conduct.

### Introduction

- 2 The new system means that local Standards Committees can directly refer a complaint relating to breaches of the Code of Conduct by District Council

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Members, Parish/Town Members and Co-opted Members to the Monitoring Officer for local Investigation and a possible Determination Hearing.

- 3 Local authorities are obliged under the mandatory Guidance to develop effective procedures to fulfil their new legislative requirements.
- 4 Guidance on how to conduct Investigation and Determination Hearings have recently been produced by the Standards Board for England (the Board) enabling and necessitating the completion of a new procedure on conducting an Investigation and Determination Hearing for consideration by this Committee.

**The Guidance**

- 5 The Guidance applies to Monitoring Officers and anyone nominated by a Monitoring Officer to carry out Investigations whether employed by the authority or engaged by the authority.
- 6 The process of dealing with Investigation and Determination Hearings at a local level should be the same for all Members no matter what political party or level of local government they represent.
- 7 When carrying out an Investigation and Determination Hearing the procedure should be recognised as truly fair so that the public has confidence in the findings.
- 8 Processes and procedures need to be established that will engender the public's confidence and this Committee is referred to the Procedure for Referrals to the Monitoring Officer for Investigation and Determination set out in the Appendix to this report for approval and incorporation into the Council's Constitution.
- 9 As there may need to be statutory amendments to the Local Government and Public Involvement in Health Act 2007, the Regulations and the Guidance produced by the Board it would seem sensible to seek delegated authority for the Standards Committee to make any necessary changes to the Procedure for Referrals to the Monitoring Officer for Investigation and Determination.

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

- 10 The report is for consideration and approval by this Committee in respect of the Procedure for Referrals to the Monitoring Officer for Investigation and Determination set out in the Appendix to this report and for recommendation to Council for adoption and incorporation within the Council's Constitution.

## **Key Implications**

### Financial

- 11 Financial implications of the new procedures will be kept under review. No dedicated budget provision has been made for the changes that are envisaged.

### Legal, Human Rights etc.

- 12 The Legislation and Guidance provides the detailed provisions to implement the new ethical standards regime. There are human rights implications arising from the effect of the Legislation. There is an obligation to ensure a fair Investigation and Determination Hearing process in accordance with the relevant articles of the European Convention.

### Resource (non-financial)

- 13 Staffing resources will need to be kept under review as it is still too early to predict how many local referrals for Investigation and Determination will take place.

### Value For Money

- 14 Attempts are being made to try and absorb the potential work within existing budgets.

### Equality

- 15 The new legislation has given the Standards Committee significant new responsibilities. Clear procedures should assist in ensuring that:
- it is established what happened in a fair and objective manner
  - the findings reached are set out clearly with the reasons given
  - the Investigation and Determination Hearing is completed promptly and proportionately

## **Conclusions**

- 16 The Legislation and the Guidance sets out the changes to the system of handling complaints into alleged breaches of the Code of Conduct and the issues which the Standards Committee needs to address, in order to meet these new requirements.

## **Risk Assessment Statement**

- 17 The authority will be failing to meet its statutory obligations if it does not meet the requirements of the Legislation and mandatory Guidance.

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- 18 This could result in loss of reputation for the authority, powers being taken away from the authority and standards of conduct being eroded.

**Sources of Information:**

The Local Government and Public Involvement in Health Act 2007

The Standards Committee (England) Regulations 2008

Guidance produced by the Standards Board For England

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