

REVIEW OF ARRANGEMENTS FOR THE STANDARDS REGIME

Standards Committee – 16 January 2014

Report of Monitoring Officer

Status: For consideration

Key Decision: No

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

Contact Officer(s) Mrs Christine Nuttall – Chief Officer Legal and Governance

Recommendation to the Standards Committee: That the report be noted.

Reason for recommendation: To keep the Council's arrangements for the consideration of complaints under the Standards Regime under review.

Introduction and Background

- 1 The last meeting of the Standards Committee on 24 January 2013 reviewed the procedures put in place in July 2012 in the light of the complaints received in 2012. Some Initial Intake Criteria were strengthened to improve the process of receiving and considering such complaints.
- 2 As set out in the Monitoring Officer's Annual Report 2013, elsewhere on this Agenda, the number of complaints received in 2013 was three – a considerable reduction from the previous year. There are no lessons to be picked up from operating the procedures during 2013 requiring amendment to the Intake or Assessment Criteria.
- 3 A small number of issues were raised at the January 2013 meeting for officers to consider, covering:
 - Parish and Town Council Codes
 - Private Capacity
 - Vexatious Complaints

Parish and Town Council Codes

- 4 Information has been sought from all Parish and Town Councils in the District with regard to which Code they have adopted. This information has been sought in the past from the relevant Council whenever a complaint had been received.

- 5 It appears that the only codes adopted are either the SDC (DCLG) Code or the NALC one. This has not been a problem for the District Council in administering the procedures to consider complaints. It may be worth writing again to those that have not adopted the SDC Code, immediately prior to the 2015 elections to try and get them to change to the SDC Code for their new Councils.

Private Capacity Test

- 6 The issue of “private capacity” was strengthened in the Initial Intake Test, at the last meeting, by adding a Criteria:

“The Member was acting in their official capacity (if there is ambiguity the box should still be ticked and the matter assessed)”

- 7 This means that if the Member is CLEARLY acting in their private life, the complaint will NOT get through the Initial Intake Test. This arose from complaints in 2012 where this was clearly the case, but which at that time still had to proceed to Assessment.

- 8 Any complaint where there is doubt would continue to Assessment Stage.

Vexatious Complaints

- 9 The Council’s “Complaints procedure – Guidance for staff” includes a section on Vexatious complaints. A copy of this document is attached at Appendix A and the relevant section is 3.6. The document defines a complaint as vexatious if it is:

- essentially about the same matter that has already been considered, with only very minor differences and does not contain any new information
- slightly different from the original complaint but about the same broad area of activity. A decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint.
- one where the complainant has already exhausted all stages of the Council’s complaints procedure and possibly the Ombudsman too, but continues to send in complaints covering the same ground and the Council cannot comment any further apart from restating information previously given.

- 10 With regard to the Standards arrangements, the Initial Intake Test includes a Criteria that -

“The complaint is not the same or substantially similar to a complaint that has already been assessed”;

and the Assessment Test includes the following –

- Has the issue been publicised in the local press
- Is the complaint malicious
- Is the complaint minor
- Is the complaint tit for tat
- Is the case politically motivated

- 11 Both the Initial Intake Test and the Assessment are carried out by officers of the Council, and they would have due regard to the guidance document. It is the case that vexatious complaints would be picked up and dealt with in any case, either at Intake or Assessment, under the criteria detailed above.
- 12 It is suggested that additional criteria for such complaints are therefore not required.

Key Implications

Financial

- 13 None.

Legal Implications and Risk Assessment Statement.

- 14 The current processes and procedures comply with the Localism Act 2011 and supporting legislation.

Equality Impacts

| Consideration of impacts under the Public Sector Equality Duty: | | |
|---|--------|--|
| Question | Answer | Explanation / Evidence |
| a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community? | No | This report provides insight into the high ethical standards applied across all levels of the authority. |
| b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity? | Yes | |
| c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above? | | N/A |

Conclusions

15. The current arrangements for receiving and considering complaints under the Standards Regime are working well, in an efficient manner, and it is suggested that no further amendment is required at this time. The Committee is asked to note the content of this report.

Appendices

Appendix A – Sevenoaks District Council’s Complaints procedure – Guidance for staff.

Background Papers:

[The Council's Constitution in particular Appendix S
"Arrangements for dealing with Code of Conduct
Complaints under the Localism Act 2011"](#)

**Mrs Christine Nuttall
Chief Officer for Legal and Governance**