

By: Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 18 March 2010

Subject: Complaints Monitoring report

Summary: To formally note the current position with regard to the receipt and consideration of complaints about KCC Members and the action taken by the Assessment and Review Sub Committees.

Unrestricted

Background

1. At the meeting of the Standards Committee on 25 November 2008, it was agreed that a report would be submitted to the Committee every six months, giving the relevant details of the current stage of any complaints that had been considered by the Assessment or Review Sub Committee. Accordingly, attached at **Appendix 1** is a schedule detailing this information.

Assessment Criteria

2. It is good practice, from time to time, for the Standards Committee to consider and review the criteria used to assess complaints, and this is attached at **Appendix 2**. The criteria were last reviewed in April 2009. Members are asked if they would like to change the criteria in any way, by the addition, deletion or amendment of assessment criteria. Once agreed, the revised criteria will be published on the existing web pages that inform the public how to complain about the conduct of Members.

DVD from Standards for England – “Assessment made clear”

3. Standards for England have released a new training DVD called “Assessment made clear” and the Committee has agreed that all Members would view the DVD in their own time. The Chairman has now viewed the DVD and it is available for other Members from the Head of Democratic Services and Local Leadership.

Recommendation:

4. The Committee is invited to:
- (a) Formally note the current position with regard to the receipt and consideration of complaints (Appendix 1); and
 - (b) Consider whether the Assessment Criteria for the local complaints framework should be amended in any way (Appendix 2);

Peter Sass – Head of Democratic Services and Local Leadership
March 2010

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Appendix 1

Complaints received by the Standards Committee – May 2008 to March 2010

Reference	Complainant	Assessment outcome	Review outcome	Comments
KCC/01/2008	Member of the public	No action	Not requested	None
KCC/02/2008	Member of the public	No action	Not requested	None
KCC/03/2008	A local head teacher	No action	Not requested	None
KCC/04/2008	A Borough Councillor	No action	Refer to Monitoring Officer: Member to issue apology to complainant	Letter of apology not accepted
KCC/01/2009	A Borough Councillor	Refer to Monitoring Officer for conciliation	N/A	Complainant refused to take part in conciliation
KCC/02/2009	Member of the public	No action	Not requested	N/A
KCC/03/2009	Member of the public	Refer for investigation	Conclusion of "no breach" accepted by Sub Committee	Press Notice issued
KCC/04/2009	Member of the public	No action	Not requested	None
KCC/05/2009	Member of the public	Referred to Monitoring Officer for other action (letter of apology)	N/A	Letter of apology accepted by complainant
KCC/06/2009	Member of the public	Referred to the Monitoring Officer for a formal investigation	N/A	Standards (Consideration) Sub Committee meeting is on 18 March to determine the way forward

Assessment Criteria

Introduction

The Standards Committee or Assessment Sub Committee needs to develop criteria against which it assesses new complaints and decides what action, if any, to take. The Standards Board advises that these criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for the complainant and the subject Member.

In drawing up assessment criteria, Standards Committees should bear in mind the importance of ensuring that complainants are confident that complaints about Member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost public money and the officers' time and members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

Accordingly, the Assessment Sub Committee agreed to use the following initial questions and assessment criteria at its previous meeting in June and it suggested that the Sub Committee uses this as a benchmark. The assessment criteria can be amended as appropriate in the light of experience.

Initial questions

1. Is the complaint about one or more Members of the Authority covered by the Standards Committee?
2. Was the named Member in office at the time of the alleged Conduct?
3. Had the named Member signed the Declaration of Acceptance of Office, agreeing to abide by the Code of Conduct?
4. Was the Code of Conduct in force at the time of the alleged conduct?
5. Would the complaint, if proven, be a breach of the Code of Conduct?

If the complaint fails one or more of these initial tests, it cannot be investigated as a breach of the Code and the complainant should be informed that no further action will be taken in respect of the complaint.

Assessment Criteria

1. Does the complaint relate to dissatisfaction with a Council decision, rather than the conduct of a particular Member?

2. Does the complaint concern acts carried out in a Member's private life, when they are not carrying out the work of the authority or have not misused their position as a Member?
3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
4. Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
5. Is the complaint about something that happened such a long time ago that there would be little benefit in taking action now?
6. Is the complaint too trivial to warrant further action?
7. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?
8. Is the complaint, part of a continuing pattern of less serious conduct by a Member that is unreasonably disrupting the business of Kent County Council and there is no other avenue left to deal with it, short of an investigation?
9. Has the complainant submitted enough information to satisfy the Assessment Sub Committee that the complaint should be referred for investigation or other action?

Note: If a matter is referred for investigation or other action, it does not mean that the Sub Committee assessing the complaint has made up its mind about the allegation. It simply means that the Sub Committee believes that the alleged misconduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

Peter Sass
Head of Democratic Services and Local Leadership
November 2008