

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee 24th September 2007
AUTHOR/S: Chief Executive/ Deputy Monitoring Officer

PROCEDURE FOR THE INITIAL ASSESSMENT OF COMPLAINTS

Purpose

1. To re-examine the Committee's current procedure following officer and member experience of the assessment process.

Background

2. The Standards Committee adopted a Procedure for the Local Assessment of Complaints on 11th June.
3. The procedure reads as follows:

"Acknowledging receipt of a complaint

On receiving a complaint and after determining that it is a Code complaint, the Monitoring Officer shall:

- (a) Send written acknowledgement to the complainant,
- (b) Normally inform the subject member of that complaint, (*having due regard to the Data Protection Act 1998 and Section 63 of the Local Government Act 2000 as modified by Regulation 12 of the regulations*) including:
 - i. the name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it)
 - ii. the relevant paragraphs of the Code of Conduct that are alleged to have been breached.
 - iii. a statement explaining that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint,
 - iv. and the date of the meeting of the Assessment Panel, if known.
- (c) The Monitoring Officer has the discretion, to be used in exceptional circumstances only and after consultation with the Chairman of the Assessment Panel, to defer notification of the receipt of a complaint, to the subject member. In such cases, the Monitoring Officer shall notify the subject member of that complaint as soon as the reasons for deferral of notification no longer pertain, for example when sufficient investigation has been completed."

Considerations

4. Officers have encountered problems in implementing this section of the procedure and the Committee is requested to revisit it to clarify its wishes.
5. The statutory guidance issued by the Standards Board for England: "Local Assessment of Complaints" which reflects the Standards Committee (England) Regulations 2008 sets out the recommended procedure as follows:

"Acknowledging Receipt of a complaint"

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made against them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries.

The notification can say that a complaint has been made, and state the name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. **It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint**, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member."

6. Therefore the statutory guidance does not recommend telling the subject member that a complaint has been made against them at the initial stage, and leaves the decision whether to do so to the discretion of the monitoring officer. The SCDC procedure has removed this discretion and states that the subject member will **normally** be informed.
7. Problems have arisen with the current procedure when the monitoring officer has informed a subject member that an allegation has been made against them, by whom and the relevant section of the Code, but was precluded under the law from giving the member any further information whatsoever on what the complaint was about (eg. what incident/date it related to), as only the Assessment Panel itself has the power to do this. This appeared to cause unnecessary distress to the subject member and put pressure on officers.
8. It is therefore **RECOMMENDED** that the Committee's procedures are re-written to reflect the statutory guidance as follows:

“Acknowledging receipt of a complaint

On receiving a complaint and after determining that it is a Code complaint, the Monitoring Officer:

- (d) Shall send written acknowledgement to the complainant,
- (e) Has the discretion to inform the subject member of that complaint, *(having due regard to the Data Protection Act 1998 and Section 63 of the Local Government Act 2000 as modified by Regulation 12 of the regulations)* including:
 - v. the name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it)
 - vi. the relevant paragraphs of the Code of Conduct that are alleged to have been breached.
 - vii. a statement explaining that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint,
 - viii. and the date of the meeting of the Assessment Panel, if known.”

Background information: SBE Guidance:”Local Assessment of Complaints”

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