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Late Item for 16th December 2008 Standards Committee

Agenda item 15 – Review of Local Assessment Procedures

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Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 16th December 2008

Subject: LATE ITEM - Review of Local Assessment Procedures

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report provides details of the consultation process undertaken as part of the review of the Standards Committee's local assessment procedures; the report invites comments from the Standards Committee to inform a future report which will present amended Standards Committee Procedure Rules for approval.
2. The Standards Committee has no discretion over the majority of the assessment arrangements, but can make decisions relating to the following parts of the process:
 - The administrative processes it chooses to follow;
 - Their local assessment criteria;
 - The criteria for considering requests for confidentiality; and
 - The terms of reference and make-up of the Assessment and Review Sub-Committees.
3. Members of Standards Committee are asked to adopt the amended Assessment Flowchart and Code matrix attached as Appendix 3.
4. Members of the Standards Committee are asked to consider the information in this report and advise the Monitoring Officer whether any of the suggested amendments proposed by the Liberal Democrat and Conservative Groups, those listed in paragraph 3.21, and any which may be subsequently provided to the Committee, should be adopted. Members of the Standards Committee are asked to request a report back to the Standards Committee on the proposed amendments. This report is being presented as a late item because at the time of the agenda dispatch officers were still awaiting some responses from consultees. Any consultation responses which are provided to the Committee subsequently will be circulated separately.

1.0 Purpose Of This Report

- 1.1 This report provides details of the consultation process undertaken as part of the review of the Standards Committee's local assessment procedures; the report invites comments from the Standards Committee to inform a future report which will present amended Standards Committee Procedure Rules for approval.
- 1.2 This report is being presented as a late item because at the time of the agenda dispatch officers were still awaiting some responses from consultees. Any consultation responses which are provided to the Committee subsequently will be circulated separately.

2.0 Background Information

- 2.1 The Standards Committee was established by Full Council as part of the new governance arrangements introduced as part of the Local Government Act 2000. Amendments to the Committee's terms of reference may be made by either Full Council or, where the change is necessary because of a legislative requirement, by the Assistant Chief Executive (Corporate Governance)¹. The Constitution allows the Standards Committee to amend its own procedure rules and also to agree the composition and terms of reference of any sub-committees.
- 2.2 As per provisions in the Council's Constitution, and to reflect the new legislative framework, the Assistant Chief Executive (Corporate Governance) approved amendments to the Standards Committee's terms of reference in relation to the new responsibilities for local assessment and review of allegations of Member misconduct. These were agreed in May 2008.
- 2.3 Similarly, again as per the provisions of the Constitution, the Standards Committee agreed new procedures for the receipt, assessment and review of such allegations at its meeting on 1st July 2008.
- 2.4 Since then, the Assessment Sub-Committee has considered ten complaints against Leeds City Councillors and Parish Councillors, and the Review Sub-Committee has reconsidered two of these complaints.
- 2.5 When the current procedures were agreed by the Standards Committee on 1st July, it was also agreed that the Standards Committee would review these arrangements after three months of operation to ensure that they were fit for purpose (Minute 11).
- 2.6 At the conclusion of each sub-committee meeting, Members have discussed whether there were any 'lessons to learn' from that meeting and have been forwarding any queries or concerns about the arrangements to the Monitoring Officer or Clerk. A table of issues has been collated and is attached as Appendix 1. Where there is scope for amendments to be made to existing processes, this is clearly highlighted in the table.

3.0 Main Issues

- 3.1 The local assessment and review arrangements have been introduced in response to duties placed upon the Council by the Local Government and Public Involvement in Health Act 2007, the Standards Committee (England) Regulations 2008 and the Standards Board for England guidance on the Local Assessment of Complaints.

¹ As per Article 15.2 of the Constitution.

The Standards Board guidance states that “each authority must develop effective procedures to fulfil its legislative requirements” and that “Members and officers involved in the assessment of complaints must take this guidance into account when doing so”. The Standards Committee has no discretion over some parts of the assessment arrangements, but can make decisions relating to the following parts of the process:

- The administrative processes it chooses to follow;
- Their local assessment criteria;
- The criteria for considering requests for confidentiality; and
- The terms of reference and make-up of the Assessment and Review Sub-Committees.

Administrative Processes

3.2 On 1st July 2008, the Standards Committee agreed the following arrangements:

- To have a separate complaints process for receiving complaints about the Code of Conduct²;
- That complaints should be encouraged to use the proper form, although all written complaints about the Code of Conduct would be accepted;
- That officers should produce a covering report for each complaint, including any ‘readily obtainable’ information which may assist the Assessment Sub-Committee with their decision;
- That the Monitoring Officer would take steps to notify the subject Member that a complaint has been made about them, the name of the complainant (unless they have requested confidentiality), and the paragraphs of the Code of Conduct that are alleged to have been breached; and
- That the Assessment and Review Sub-Committees would produce a decision notice (based on the Standards Board for England template) to advise the complainant and subject Member of their decision, details of any further action and rights of review, and a separate written summary or ‘case summary’ which would contain less information and be made available for the public to inspect on the Council’s website.

3.3 Issues have occurred with all the above processes, with the exception of whether complaints should be received through the corporate complaints system rather than through a separate system. There have been no problems experienced with the current system, and complaints have been referred between the two complaints systems successfully.

3.4 The issues raised by Members and others regarding the new arrangements, together with possible options for the Standards Committee to consider, are summarised in the attached table (Appendix 1).

² Rather than this function to be incorporated into the existing corporate complaints process.

- 3.5 The administrative arrangements adopted by the Standards Committee are not currently reflected in the Standards Committee Procedure Rules. The Standards Committee may wish to consider amending the Procedure Rules so that its administrative arrangements are included. The advantages of amending the Procedure Rules in this way would be increased clarity and transparency in the Committee's operations, although the disadvantages may include that it would be more difficult for the Standards Committee to make amendments to its administrative arrangements at short notice.

Local Assessment Criteria

- 3.6 According to the Regulations and the Standards Board guidance, each standards committee needs to develop criteria against which it can assess new complaints and decide what action to take. These assessment criteria should reflect local circumstances and priorities and be simple, clear and open.
- 3.7 The Standards Committee considered the proposals set out in the Standards Board guidance and agreed on 1st July 2008 to adopt the local assessment criteria attached at Appendix 2. No specific issues have been raised about the local assessment criteria to date, although, as per the Constitution, the Standards Committee could consider whether there is anything they wish to amend or add as a result of the cases considered so far.
- 3.8 The Standards Committee have also decided to use an Assessment Flowchart to assist them with considering the three initial questions and applying their assessment criteria. This flowchart is a local creation, but is based on the Standards Board guidance, and is provided within each agenda for Assessment and Review Sub-Committee meetings. Some Members have experienced difficulties with the current flowchart, specifically, how to reach a conclusion on the third initial test, which asks Members of the Assessment Sub-Committee to decide whether the alleged behaviour would be a breach of the Members' Code of Conduct.
- 3.9 In order to assist Members with this stage of the process, an additional flowchart has been produced which considers each paragraph of the Code of Conduct separately. The revised Assessment Flowchart and the new Code matrix is attached as Appendix 3. Members of the Standards Committee are asked to consider whether to adopt this new version of the Assessment Flowchart.

Criteria for considering requests for confidentiality

- 3.10 In their guidance, the Standards Board advise that standards committees should develop criteria by which the Assessment Sub-Committee will consider requests for confidentiality (where the complainant has identified themselves in the complaint). It is proposed that these criteria are as follows:
- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
 - The complainant is an officer who works closely with the subject member and they are afraid of suffering a disadvantage to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle blowing policy).
 - The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (in such circumstances,

Standards Committees may wish to request medical evidence of the complainant's condition).

- 3.11 The Standards Committee agreed to adopt the above criteria at their meeting on 1st July 2008. The Standards Committee also agreed that complaints made completely anonymously would only be referred for investigation or other action if they were exceptionally serious.
- 3.12 Again, there have been no specific issues raised regarding these criteria, although the Standards Committee could consider whether there is anything they wish to amend or add as a result of the cases considered so far.

Role and make-up of the Assessment and Review Sub-Committees

- 3.13 All Council Committees have the authority to set the Terms of Reference for their sub-committees. The Standards Committee agreed the terms of reference for the Assessment and Review Sub-Committees on 1st July 2008. The Terms of Reference for each of the sub-committees are attached as Appendix 4.
- 3.14 The Standards Committee (England) Regulations 2008 state that the Standards Committee must establish a sub-committee which is responsible for assessing complaints that a Member may have breached the Code of Conduct. They also state that the Standards Committee must establish a separate sub-committee which is responsible for conducting reviews of these decisions. Therefore the Standards Committee has little discretion over the functions of its sub-committees.
- 3.15 However the Standards Committee did choose to also enable the Assessment Sub-Committee rather than the full Standards Committee to consider final reports submitted by investigators and decide whether they agree with the conclusion of the report and who should conduct any subsequent hearing. This was to ensure that there were less delays in the process now that final reports must be considered by the Standards Committee before entering the pre-hearing process. The Standards Committee may wish to consider whether they wish the terms of reference for the Assessment Sub-Committee to include this function.
- 3.16 In addition, the regulations also prescribe that the sub-committee must be made up of no less than three Members, that the Chair should be an Independent Member, and that a Parish Member should be present when complaints about Parish Councillors are being discussed. Therefore the Standards Committee also has little discretion over the make-up of their sub-committees.
- 3.17 On 1st July 2008, the Standards Committee agreed the following sub-committee membership (for both the Assessment and Review Sub-Committees):
- One Independent Member (Chairperson);
 - Two Leeds City Council Members³; and
 - One Parish or Town Council Member (the Parish or Town Council Member only need attend if the matter involves a Parish or Town Councillor).
- 3.18 Members of the Standards Committee could consider whether they wish to make any amendments to the above membership, within the limits set by the regulations (listed in paragraph 3.16).

³ Only one Leeds City Council Member needs to be present if the Parish or Town Council Member is also present, in order for the sub-committee to be quorate.

Consultation Process

- 3.19 Group Whips have been consulted on the review. Initial comments from Group Whips indicated that in their view there has been little elected Member buy-in for the new arrangements. To address this the Group Whips have commented that the General Purposes Committee should be the Committee which make recommendations to Full Council on the adoption of Standards Committee Procedure Rules.
- 3.20 More detailed feedback on the local assessment process has been received from the Liberal Democrat and Conservative Groups. These responses are attached as Appendices 6 and 7. Some of these comments relate to matters over which the Standards Committee has no discretion as the processes are prescribed by regulations and some of the responses accord with the Standards Committee's current practices.
- 3.21 The Corporate Governance Team have contacted all those complainants and subject Members who have been involved in the process so far to ask them whether there are any elements of the process which they feel can be improved. Any information from the questionnaires which have been received has been collated and is attached as Appendix 5. Officers decided to request this feedback in the form of a questionnaire in order to avoid inviting further complaints. As a result of the feedback received, the Standards Committee may wish to:
- Note that all Members who responded to the consultation answered that they would prefer to know that a complaint had been made about them before the Assessment Sub-Committee has met to consider the complaint;
 - Consider proposing revisions to the correspondence templates to provide more clarity on the processes used and the next stage (if applicable);
 - Consider creating a specific form for complainant's to use when requesting a review of a decision;
 - Consider adding more detail to the decision notices and making them easier to understand;
 - Note that all Members who responded to the consultation felt that the case summaries should not be published on the Council's website, one of the complainant's felt that the summary should be published and the other was not bothered; and
 - Consider how to address the perception of the role of the Monitoring Officer, and provide clarity in the roles of officers in the local assessment process.

4.0 Implications For Council Policy And Governance

- 4.1 It is important for complainants to feel confident that complaints about Member conduct are taken seriously and are dealt with appropriately, and it is equally as important that subject Members feel that the process is fair to all parties. Therefore it is important for the good governance of the Council that the Standards Committee are confident that their procedures are fit for purpose and are operating effectively.

5.0 Legal And Resource Implications

5.1 There are no resource implications to the information in this report. Any legal issues are highlighted within the report itself.

6.0 Conclusions

6.1 The current arrangements are taken from the Standards Committee (England) Regulations 2008 and the Standards Board for England guidance on the Local Assessment of Complaints. The Standards Committee has no discretion over some parts of the assessment arrangements, but can make decisions relating to the following parts of the process:

- The administrative processes it chooses to follow;
- Their local assessment criteria;
- The criteria for considering requests for confidentiality; and
- The terms of reference and make-up of the Assessment and Review Sub-Committees.

6.2 The issues raised by Members regarding the administrative processes and any alternative options for the Standards Committee to consider, are summarised in the attached table (Appendix 1).

6.3 The Corporate Governance Team have contacted all those complainants and subject Members who have been involved in the process so far to ask them whether there are any elements of the process which they feel can be improved.

6.4 In order to ensure that this consultation process does not invite further complaints about the previous decisions made by the Assessment or Review Sub-Committees, a questionnaire has been devised for this purpose. The results from the returned questionnaires are detailed in Appendix 5.

6.5 Having received feedback from Standards Committee it is the Monitoring Officer's intention to prepare a future report which will present amended Standards Committee Procedure Rules for approval.

7.0 Recommendations

7.1 Members of Standards Committee are asked to adopt the amended Assessment Flowchart and Code matrix attached as Appendix 3.

7.2 Members of the Standards Committee are asked to consider the information in this report and advise the Monitoring Officer of:

- Any of the possible amendments highlighted in Appendix 1 (listed below) which should be incorporated into the future report presenting revised Standards Committee Procedure Rules for approval;
 - whether subject Members should not be contacted at all until the Assessment Sub-Committee have considered the complaint;

- whether amendments should be made to the complaints form so that complaints are addressed to the Monitoring Officer, rather than the Assessment Sub-Committee;
 - whether the Standards Committee should only accept complaints made on the proper form, whether they choose to amend the form or not;
 - whether Sub-Committee Members should be notified of the subject Members' identity when they receive the Sub-Committee meeting invitation;
 - whether the Sub-Committee Members would prefer meetings to be scheduled every four weeks for the next six months;
 - whether it would be reasonable for all guidance from officers to be removed from the covering report;
 - whether it would be reasonable for there not to be a covering report for each complaint. If this were to be the case the Assessment Sub-Committee would need to make their decision based on the complainant's letter only;
 - whether to record decisions which are made by a majority in decision notices, and the reasoning for the minority view should also be recorded;
 - whether the written summary should be the only record of the Assessment and Review Sub-Committee decision (with the consequential impact being the use of a decision notice be discontinued);
 - whether the written summary of the Assessment or Review Sub-Committee's findings should continue to be published on the Council's web site.
 - whether they would like to receive a copy of the final decision notice after it has been approved by the Chair;
 - whether covering letters (which would be needed if decision notices were no longer used) should include timescales for completion of investigation; and
 - whether all case summaries should be made anonymous.
- whether the Standards Committee Procedure Rules should include the administrative arrangements adopted by the Standards Committee;
 - any amendments to the local assessment criteria (attached as Appendix 2);
 - any amendments to the criteria for considering requests for confidentiality;
 - any amendments to the terms of reference of the Assessment Sub-Committee;
 - any amendments to the membership of the Assessment and Review Sub-Committees, within the limits set by the regulations; and

- whether any of the suggested amendments proposed by the Liberal Democrat and Conservative Groups, those listed in paragraph 3.21, and any which may be subsequently provided to the Committee, should be adopted.

7.3 Members of the Standards Committee are asked to request a report back to the Standards Committee on the proposed amendments.

Background documents

Standards Committee (England) Regulations 2008

“Local Assessment of Complaints” by the Standards Board for England, available at:
<http://www.standardsboard.gov.uk/Localassessment/Guidanceandtoolkit/#d.en.16399>

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, “Final proposals for the local assessment arrangements”, 1st July 2008

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, “Process for the receipt, referral and management of allegations of misconduct”, 1st July 2008

Standards Committee Minutes, 1st July 2008

Various Council websites as listed in Appendix 1

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Matters for Review

Establishing the local arrangements

Issue	Response	Comments / Recommendations
<p>The Standards Committee does not have the power to set its Terms of Reference or the processes its adopted. They should be done by full Council - Members were not consulted about them.</p>	<p>The Local Government Act 2000 required each authority to establish a Standards Committee. The recently introduced Standards Committee (England) Regulations 2008 set out the size and composition of that Committee. The new functions in relation to local assessment and review of complaints were imposed on Standards Committees by the Local Government and Public Involvement in Health Act 2007. The Standards Committee (England) Regulations 2008 stipulated that this must be done by a Sub-Committee of the Standards Committee which must be chaired by an Independent Member.</p> <p>The Standards Board also state in their guidance that the administrative processes that the authority adopts should be agreed with the Standards Committee as part of the processes and procedures that they must publish. The new additions to the Procedure Rules were either taken directly from Regulations or from the Standards Board guidance.</p>	<p>There was no choice regarding the addition to the Standards Committee's Terms of Reference, and each Committee is able to determine the Terms of Reference for its own Sub-Committees. For this reason the legislative changes to the full Committee's terms of reference were approved by delegated decision by the Assistant Chief Executive (Corporate Governance) as per Article 15.2 of the Constitution.</p> <p>With regard to the Standards Committee Procedure Rules, the Council's Constitution provides that amendments to these are approved by the Standards Committee. The specific amendments in relation to this process were agreed on 1st July 2008.</p>

Before the Assessment Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>Notifying the subject Member that a complaint has been received is unhelpful without a summary of the complaint.</p>	<p>The Standards Board guidance states that 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 about them. This is a locally determined process, which goes beyond the arrangements previously operated by the Standards Board for England and may be changed if necessary. However the Local Government and Public Involvement in Health Act 2007 places a duty on the Council to provide a written summary of the allegation the subject Member only once the Assessment Sub-Committee has met to consider the complaint¹.</p>	<p>Standards Committee are asked to consider whether subject Members should not be contacted at all until the Assessment Sub-Committee have considered the complaint.</p>
<p>What is readily obtainable evidence? Is it information within the public domain or information which the Monitoring Officer has easy access to by other means?</p>	<p>The Standards Board advises that;</p> <p><i>“Where we say that the monitoring officer can gather easily obtainable documents to assist the Assessment Sub-Committee with its decision, we mean that if the monitoring officer is able to get their hands on useful documents without having to carry out a mini-investigation, they can do so. It does not matter whether or not the documents are publicly available - it is more about how readily available they are. Public documents tend to be readily available. The monitoring officer can, however, include documents that they can easily get hold of which are not publicly available”.</i></p>	<p>Clarification has been received on the points requiring clarification.</p>

¹ Although in exceptional circumstances this may be withheld, for example where it is not in the public interest to do so, such as where a persons ability to undertake an investigation might be prejudiced.

Issue	Response	Comments / Recommendations
<p>What papers should be provided to the Review Sub-Committee? Should they include the decision notice of the Assessment Sub-Committee? What is the purpose of the Review meeting?</p>	<p>The Standards Board have previously advised the Monitoring Officer that:</p> <p><i>“An important element of the review stage of the local assessment process is establishing if the Assessment Sub-Committee followed its processes correctly, for example - as stated in the guidance - if there was a failure to follow any published criteria or if there was an error in procedures.</i></p> <p><i>However, the review is also an opportunity to reconsider the complaint if it appears to the Review Sub-Committee that the decision taken at the initial assessment stage was flawed. An example of this is as stated in the guidance, if the Review Sub-Committee believes that not enough emphasis was given to a particular aspect of the complaint. This will be a judgement of the Review Sub-Committee rather than a failure by the Assessment Sub-Committee to follow procedures correctly. An example of a similar scenario could be where the Review Sub-Committee believes that a prejudicial interest could arise in a scenario presented by a complainant, but the Assessment Sub-Committee believed that it could not.</i></p> <p><i>As such scenarios look at the decision making of the Assessment Sub-Committee in addition to its adherence to procedures, the review stage of the process can be seen as a 're-hearing' in this sense as well as a check that initial assessment procedures were administered correctly.</i></p> <p><i>Section 57B(2) of the Local Government Act 2000, as amended, simply states that the person who made the allegation may make a request to the Standards Committee of the relevant authority concerned for that decision to be reviewed. This review may take the form of considering whether the Assessment Sub-Committee undertook its role correctly, but</i></p>	<p>Clarification has been received on the points requiring clarification.</p>

Issue	Response	Comments / Recommendations
	<p>also a consideration of the appropriateness of the decision making of that Assessment Sub-Committee.”</p> <p>More recently, advice was received from the Standards Board which stated:</p> <p><i>“The role of the review subcommittee is to review the Assessment Sub-Committee’s decision that no action should be taken in respect of the allegation. In doing so, the Review Sub-Committee is not merely upholding or not upholding the original assessment subcommittee decision but considering the complaint de novo. Section 57B(4)(a) of the Local Government Act 2000 stipulates that when a request for a review is received, section 57A(2) to (4) again applies to the review. This means that the Review Sub-Committee has all the same decisions available to it as the Assessment Sub-Committee did.”</i></p> <p>The Standards Board also advise that:</p> <p><i>“consideration of a complaint by a Review Sub-Committee is a hearing de novo but it is also helpful to the review panel to see how the initial Assessment Sub-Committee did things and why.”</i></p> <p>Therefore the Standards Board see no harm in letting Review Sub-Committees see the decision notice as long as they understand that they are not bound by it in any way.</p>	
Should only complaints made on the proper form be accepted by the Standards	The form devised by Leeds City Council is addressed to the Chair of the Assessment Sub-Committee so that it is clear that complaints made on the proper form will be considered by the Assessment Sub-Committee.	The Standards Committee are asked to consider whether amendments should

Issue	Response	Comments / Recommendations
<p>Committee? Should the form have a box to tick to indicate that the complainant is happy for their complaint to be considered by the Standards Committee?</p>	<p>However this may cause issues where complaints are made on the complaint form that are nothing to do with the Code of Conduct.</p> <p>Complaints made by letter and email are not necessarily addressed to the Standards Committee. Where it is unclear what the complainant requires, a form is sent for them to complete and return along with some guidance about the complaints process. The Standards Board for England advise that:</p> <p><i>“some complainants will not know where to direct their complaint. Officers dealing with incoming complaints will need to be alert to a complaint that a Member may have breached the Code of Conduct. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the Assessment Sub-Committee for consideration.”</i></p> <p>Therefore if a complaint is clearly about the Code of Conduct it could be referred to the Assessment Sub-Committee anyway.</p> <p>When a complaint is addressed to the Monitoring Officer, the Monitoring Officer should determine whether the complaint should be directed to the Assessment Sub-Committee or whether another course of action is appropriate. If the complaint is clearly not about Member conduct, then the Monitoring Officer does not have to pass it to the Assessment Sub-Committee.</p>	<p>be made to the complaints form so that complaints are addressed to the Monitoring Officer, rather than the Assessment Sub-Committee.</p> <p>This would allow the Monitoring Officer more opportunities for informal resolution, but may introduce a delay into the process and may mean that complaints are not necessarily considered within 20 working days of being received. The form could contain a box to tick to set out if the complainant wanted the matter to go to Standards Committee or would be willing for the Monitoring Officer to consider a more informal resolution. It would assist if the form set out the remedy which the complainant was seeking.</p> <p>The Standards Committee are asked to consider whether the Standards Committee should only accept complaints made on</p>

Issue	Response	Comments / Recommendations
<p>The Sub-Committee Members need to be advised who the subject Members are prior to their attendance being agreed. This will reduce the likelihood of them having a personal / prejudicial interest.</p>		<p>the proper form, whether they choose to amend the form or not. One of the disadvantages of this approach would be that the process might appear unnecessarily bureaucratic.</p>
<p>The Sub-Committee Members do not receive enough of a choice of dates for the Assessment and Review Sub-Committee meetings and so are not always able to attend.</p>	<p>Until now Members have not been made aware of the identity of the subject Member until the papers for the sub-committee meeting were dispatched. Sub-Committee Members could be potentially advised of the subject Members' identity in the meeting invitation, so long as such emails are treated as 'private & confidential'.</p>	<p>The Standards Committee are asked to consider whether Sub-Committee Members should be notified of the subject Members' identity when they receive the Sub-Committee meeting invitation.</p>
<p>The Sub-Committee Members were minded to schedule meetings from now on, this would mean that for the next six months, the Independent</p>	<p>The Standards Committee decided that meetings would be held on an ad hoc basis depending on when complaints were received to prevent meetings being arranged and then cancelled later on. However, since the Committee began accepting complaints in July, there have been six meetings: two in July, three in October, and one in November and there is another due to be held in December. It may have been possible to separate these meetings to hold one every four weeks as the 20 working day deadline is only an average.</p>	<p>The Standards Committee are asked to consider whether the Sub-Committee Members would prefer meetings to be scheduled every four weeks for the next six months.</p>

Issue	Response	Comments / Recommendations
<p>Is there a process for dealing with hear say complaints? i.e. where the alleged 'victim' themselves has not submitted a complaint.</p>	<p>Chairs would attend two meetings each, the Parish and Town Council Members would attend three, and the Leeds City Council Members would attend two or three meetings each.</p> <p>This issue is not covered by the Standards Board guidance. However the Assessment Sub-Committee are not being asked to make a judgement about whether it might be true, only whether the complaint as set out may constitute a breach of the Code.</p> <p>There are no restrictions in the regulations or guidance as to who can submit complaints about Members.</p>	<p>There are no alternatives open to the Council.</p>

During the Assessment or Review Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>The Assessment Sub-Committee should not be given any guidance by officers as to whether or not the allegations could, if proven, be a breach.</p>	<p>In the covering report, officers only advise on which parts of the Code of Conduct could apply to the alleged conduct, and provide advice on these paragraphs. It is part of the role of the legal advisor to the Committee to provide advice on the Code of Conduct. The covering report only repeats guidance available from elsewhere and draws no conclusions about whether the alleged conduct would amount to a breach of the Code.</p>	<p>The Standards Committee are asked to consider whether it would be reasonable for all guidance from officers to be removed from the covering report.</p>
<p>A subject member needs to be able to see the report that went to the Assessment Sub-Committee in order that they can see full details of the complaint rather than receive a précis as set out in the decision notice and any guidance given by officers.</p>	<p>The papers presented to the Sub-Committee are not covered by the Access to Information provisions. Instead Regulation 8 of the Standards Committee (England) Regulations 2008 state that their business will be conducted in closed meetings, and that they are not subject to the rules regarding notice of meetings, circulation of agendas or documents and public access to meetings.</p> <p>The summary in the report is likely to be the same as the précis in the decision notice. In addition, the Sub-Committee receive a copy of the original complaint alongside the covering report.</p> <p>The Standards Board for England's guidance suggest that authorities may wish to produce a covering report and suggest content for this. Leeds City Council has chosen to follow this guidance although the style and format of the report is local .</p> <p>The Information Commissioner has agreed that this information does not need to be provided to the subject Member.</p>	<p>The Standards Committee are asked to consider whether it would be reasonable for there not to be a covering report for each complaint. If this were to be the case the Assessment Sub-Committee would need to make their decision based on the complainant's letter only.</p>

Issue	Response	Comments / Recommendations
<p>Can other paragraphs of the Code of Conduct be drawn into the investigation later on, or do they need to be specified by the Sub-Committee at the start?</p>	<p>The Standards Board guidance on investigations suggests that the investigator considers the complaint that has been provided by the complainant, and that they do not have to rely on the complainant's interpretation on what parts of the Code have been breached. However, if during the course of the investigation, the investigator uncovers evidence of conduct which extends beyond the scope of the investigation that has been referred to them, they are advised to notify the party that they need to submit a separate complaint to the Assessment Sub-Committee. Alternatively, if the investigation has been referred to them by an Ethical Standards Officer, they can refer it back to them if more breaches of the Code are uncovered.</p>	<p>There are no alternatives open to the Council.</p>

After the Assessment or Review Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>If the decision of the Sub-Committee is a majority decision, should this be recorded? Also should the minority view be recorded as part of the decision notice and case summary?</p>	<p>The only area of the Council where a minority view is reported is at Scrutiny Boards where a person can attach a minority report to the approved report. This does not happen in quasi-judicial meetings. The Standards Committee (England) Regulations 2008 require that the Assessment Sub-Committee produce a written summary of the proceedings, which must record the main points considered, its conclusion on the allegation and the reasons for that conclusion. The Standards Board for England have confirmed that they did not ever record if the decision was made by a majority and would not recommend that Leeds City Council did either, as the decision notice is supposed to be a record of the Sub-Committee's decision as a whole, and so regardless of whether the decision was made unanimously or by a majority, the Sub-Committee's decision would be the same. They also felt that it might be confusing for the parties involved.</p>	<p>The Standards Committee are asked to consider whether to record decisions which are made by majority in decision notices, and the reasoning for the minority view should also be recorded. However this would go against current practice within the Council and Standards Board advice.</p>
<p>Is both a decision notice and a case summary required? Can there just be one document?</p>	<p>The Council has a duty under section 57C(2) of the Local Government and Public Involvement in Health Act 2007 to provide a "written summary" of the allegation to the subject Member.</p> <p>In addition Regulation 8(5) of the Standards Committee (England) Regulations 2008 (the Regulations) requires that a written summary of an assessment decision is produced, which must include the main points considered, the conclusion of the complaint and the reasons for the conclusion. This must be provided to the member who is the subject of the complaint and additionally the summary must be made available for inspection by members of the public at the Council's offices for 6 years and be given to any relevant parish council.</p>	<p>The Standards Committee are asked to consider whether:</p> <ul style="list-style-type: none"> • the Written Summary should be the only record of the Assessment or Review Sub-Committee decision (with the consequential impact being the use of a decision notice be discontinued); and

Issue	Response	Comments / Recommendations
	<p>In Leeds a Written Summary is produced which complies with both the provisions of the Act and with the requirements of the Regulations. In addition to the provisions the Written Summary is also published on the Council's web site.</p> <p>To supplement the statutory requirements the Standards Board for England also suggest (in their toolkit for undertaking local assessments) that decision notices are used to notify the subject member and complainant of the decision of the Assessment Sub-Committee. The document also provides details which are relevant to the parties.</p> <p>A review of the Core Cities shows that these authorities do not publish their case summaries on their websites. Newcastle City Council do mention the fact that written summaries of decisions are available for public inspection for six years, but direct the public to the Council offices to view these. A review of other West Yorkshire authorities shows that Calderdale publishes minutes from the Assessment Sub-Committee meetings which are anonymous, but are not the written summary as they do not summarise the complaint, the main points considered, the conclusions and the reasons for the conclusions. Kirklees, Bradford, and Wakefield Councils do not appear to have published any written summaries on their websites.</p> <p>It may be of note that Scarborough District Council, who were the first Council to publish details of the complaints process and have an online form etc., do publish their decisions on their website, which name the subject Member and provide a full summary of the complaint and the decision on the complaint.</p>	<ul style="list-style-type: none"> • whether the Written Summary of the Assessment or Review Sub-Committees findings should continue to be published on the council's web site.

Issue	Response	Comments / Recommendations
<p>The decision notices are too detailed and give the impression that the Assessment Sub-Committee have decided that there is a breach.</p>	<p>The decision notices are based on the Standards Board toolkit, and Leeds City Council has discretion over their style and content, but they must contain (according to Regulation 8 of the Standards Committee (England) Regulations 2008):</p> <ul style="list-style-type: none"> • The main points considered; • The conclusions on the complaint; and • The reasons for the conclusions. <p>The decision notices clearly state that the Assessment Sub-Committee have reached 'no findings of fact'. The conduct is always referred to as 'alleged conduct' and the words 'if proven' are used to highlight that the Assessment Sub-Committee do not know whether the alleged conduct actually occurred.</p>	<p>See above.</p>
<p>The Assessment Sub-Committee should not in the decision notice set out consideration of each specific allegation separately but rather should just say whether or not they consider there is a breach overall.</p>	<p>The decision notices must set out the above, which may include different conclusions on different elements of each complaint. The Assessment Sub-Committee have the discretion to reach more than one conclusion and decision on separate areas of the allegation.</p>	<p>There are no alternatives open to the Council.</p>
<p>Although all the Members of the Assessment Sub-Committee or Review Sub-Committee get to comment on the draft decision notices, they do not see the final</p>	<p>The Regulations specify that the decision notices must be sent to the parties (i.e. the subject Member and the complainant). The Regulations also state that a summary of the decision must be made available for public inspection for six years. The Standards Committee of Leeds City Council has decided to do this in the form of a case summary.</p>	<p>Members of the Standards Committee are asked to consider whether they would like to receive a copy of the final decision notice after it has been approved by the</p>

Issue	Response	Comments / Recommendations
<p>version as it is only sent to the parties.</p>		<p>Chair.</p>
<p>The letter accompanying the decision notice does not say what the next steps are or a timescale within which it is to be carried out.</p>	<p>The letter to the parties also has the decision notice attached, which sets out what the next steps are, for example, investigation, and an appendix provides details of the Standards Board for England guidance on timescales for completion. However the covering letter could be amended to say when the allegation will be forwarded to an investigator, although the timescales for investigation will depend on a number of factors for example, the availability of witnesses etc.</p>	<p>The Standards Committee are asked to consider whether covering letters (which would be needed if decision notices were no longer used) should include timescales for completion of investigation.</p>
<p>There is a concern that a complainant could make a decision notice public.</p>	<p>According to the Standards Board for England, it is not possible for authorities to prevent complainants from publishing a decision notice. If a decision notice contained personal information or information which was classified as exempt, a warning would be inserted onto the decision notice stating this.</p>	<p>There are no alternatives open to the Council.</p>
<p>Service delivery of the insurers under the scheme is poor.</p>	<p>This is not part of the Standards Committee's procedures, and so cannot be dealt with by the Standards Committee.</p>	<p>This issue is being dealt with by the Monitoring Officer and the Council's Insurance Manager and will appear as a separate item on the Member Management Committee agenda..</p>
<p>Should the case summaries be anonymised?</p>	<p>Current guidance from the Standards Board suggests that the case summaries can contain the names of the subject Members and complainants. The Standards Board have advised that there is nothing to</p>	<p>The Standards Committee are asked to consider whether all case summaries</p>

Issue	Response	Comments / Recommendations
	prevent authorities naming complainants within case summaries, unless they have requested (and have been granted) anonymity.	should be made anonymous.
What is the process if the decision notice provokes further correspondence from the complainants? Will this correspondence be included in any subsequent investigation?	<p>In this case the Monitoring Officer would forward any correspondence to the investigator making it clear that this was not considered as part of the initial assessment decision. According to the Standards Board's advice for investigators, it is up to them what evidence they wish to include in their report and present to the Standards Committee during any hearing.</p> <p>If the complainant's letter raised a new complaint about the subject Member they would have to be advised how to make a separate complaint about the issue.</p>	There are no alternatives open to the Council.

Assessment Criteria

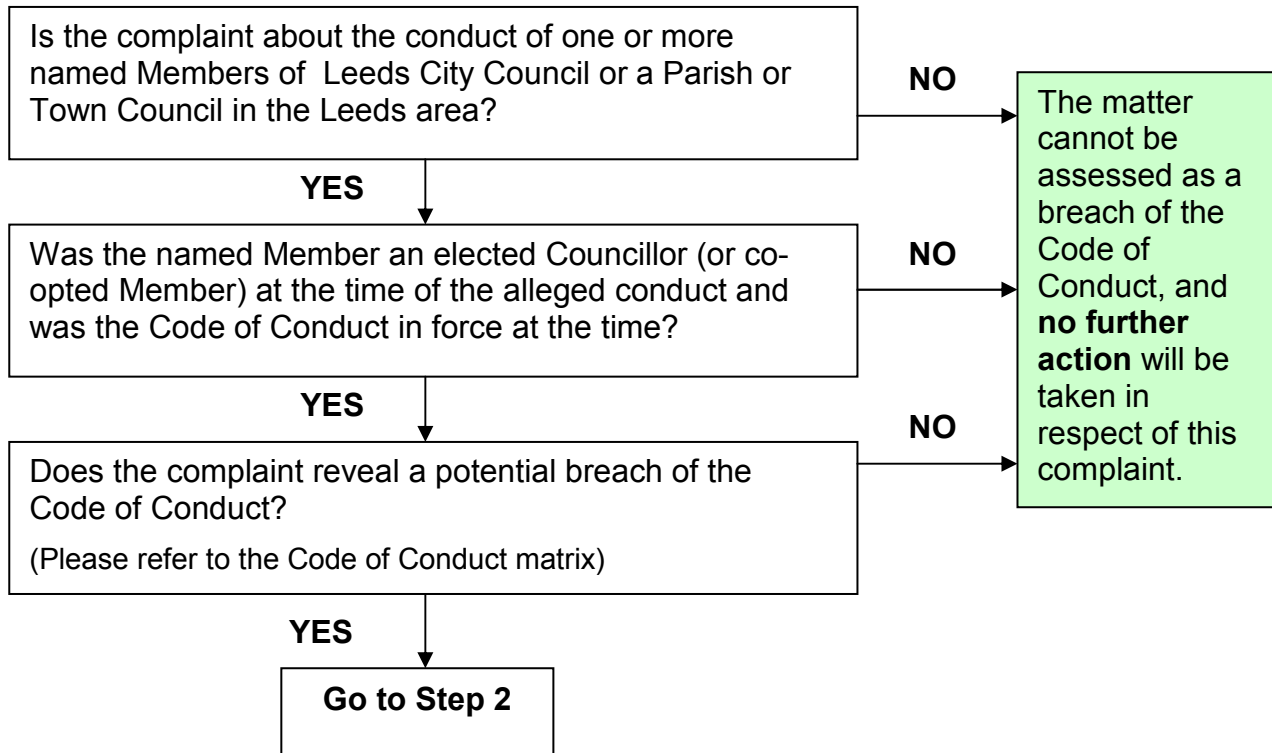
The criteria that will be used to assess the complaint made against the Member and decide whether it should be investigated are set out below:

- Complaints made anonymously will only be referred for investigation or other action if they are exceptionally serious or significant.
- If the information provided in the complaint is insufficient to make a decision as to whether the complaint should be referred for investigation, the Sub-Committee will take no further action on the complaint, unless or until further information is provided.
- If an alternative to investigation would provide an effective resolution to the matter, the Sub-Committee may refer the complaint to the Monitoring Officer to take alternative action. However if the alternative action is not successful, the case will no longer be open to investigation.
- Complaints which are considered trivial or not sufficiently serious may not be referred for further action.
- If a long period of time has passed since the alleged conduct occurred, it may be considered of little benefit to take any further action in relation to the complaint.
- If the complaint appears to be malicious, politically motivated or tit-for-tat, the Sub-Committee may decide that further action is not warranted.
- If the matter complained of has already been subject to previous investigation or other action, or has been subject to investigation by another regulatory authority, and there is nothing to be gained by further action, the Sub-Committee may not refer the complaint for investigation or other action.
- Except in the most serious of cases, complaints that disclose a potential breach under the 2001 Code of Conduct but would not constitute a breach under the 2007 Code of Conduct are unlikely to be referred for investigation or further action.
- Where the Member is no longer a member of our authority but is a member of another authority, the complaint may be referred to that authority to consider.
- If investigation of the matter would serve no useful purpose for whatever reason, the Sub-Committee may not refer the matter for investigation.
- If the complaint is unsuitable for local investigation, the matter will be referred to the Standards Board for England.

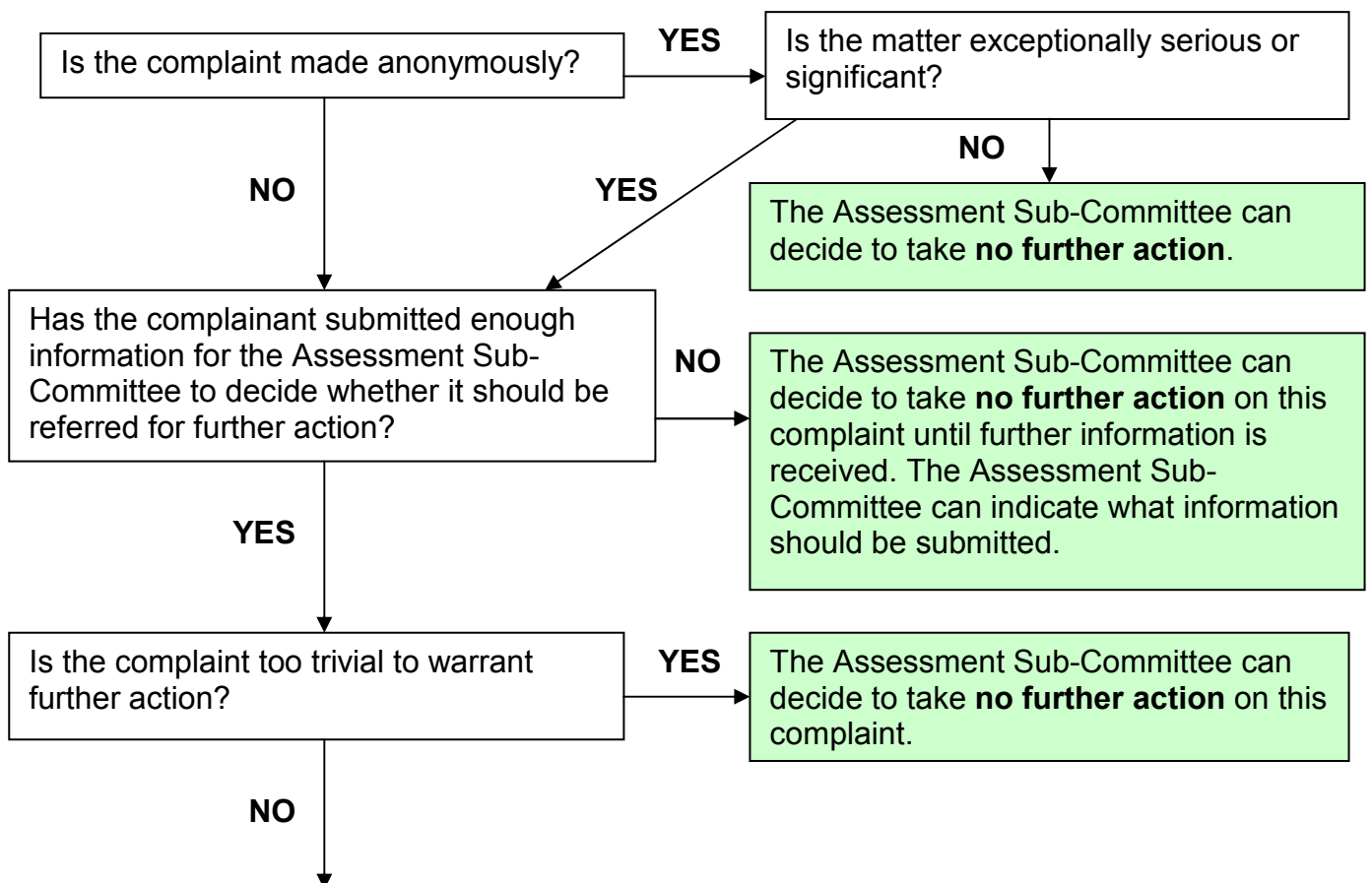
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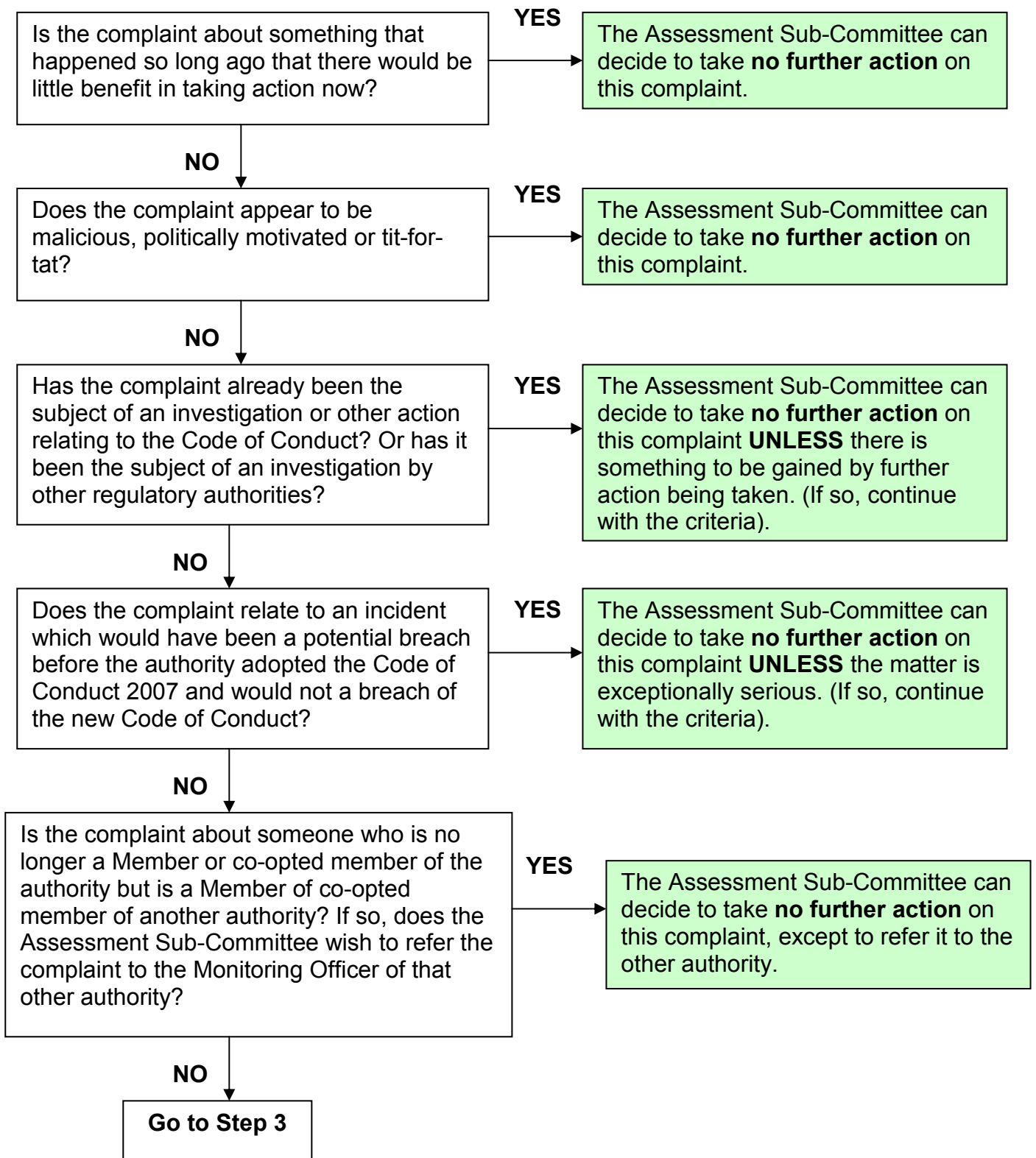
Assessment Flowchart

Step 1 - Initial Tests

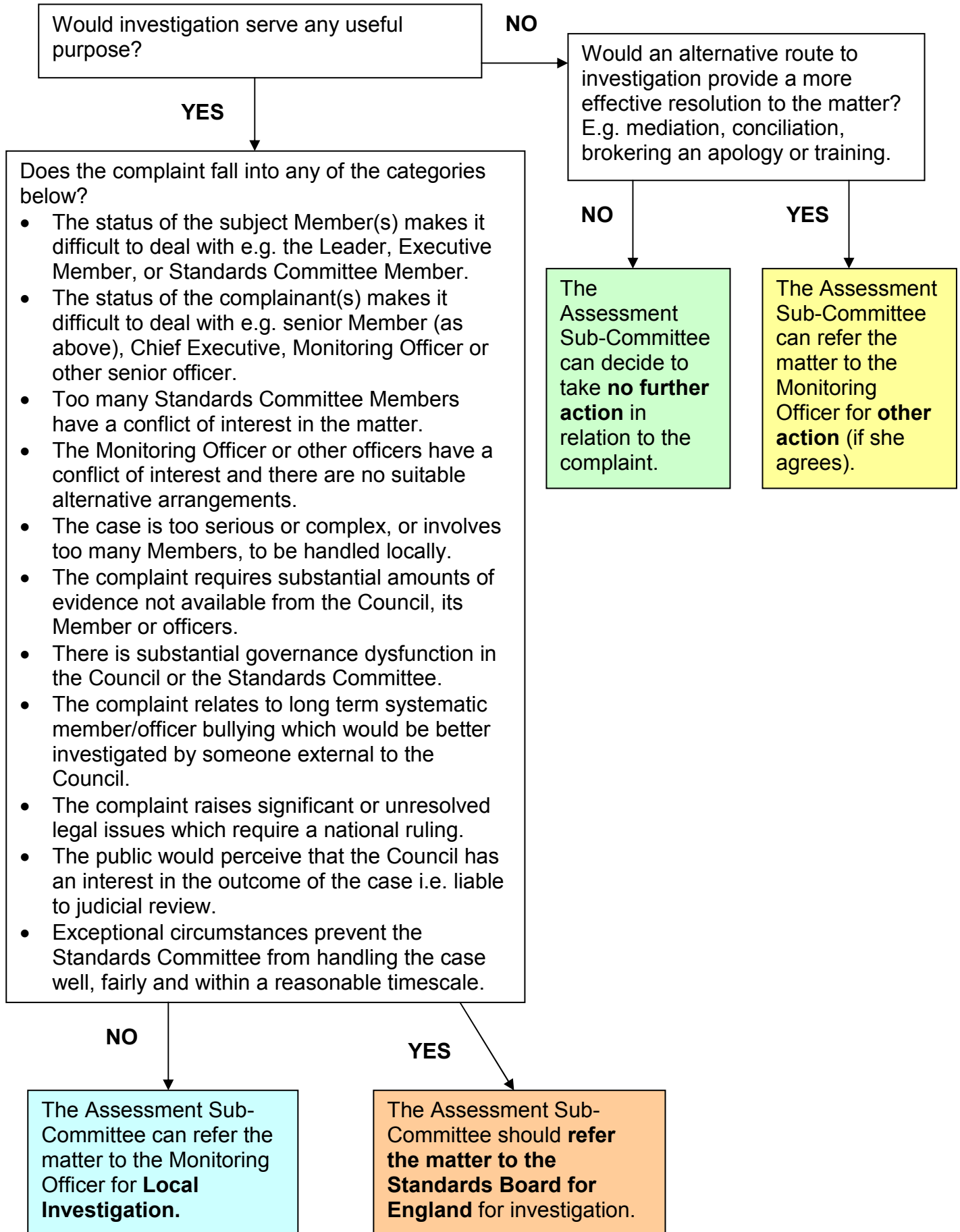


Step 2 – Applying Assessment Criteria





Step 3 – Deciding what further action is appropriate

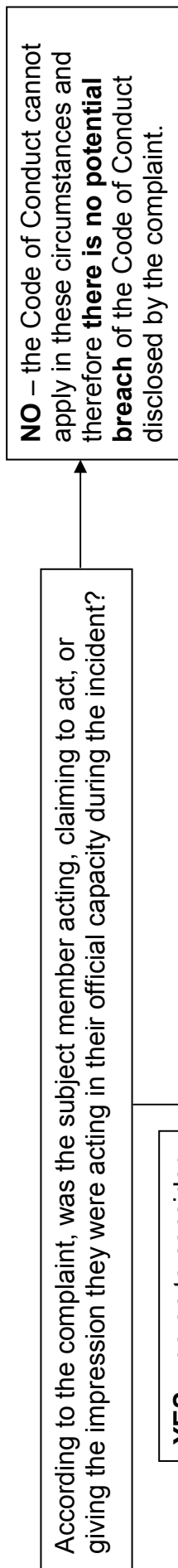


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Code of Conduct Matrix

Appendix 3

Questions relating to box 3 within Step 1 of the Assessment Flowchart



Para no.	On the basis of the information provided by the complaint, could the allegation(s) made, if they were proven, be a breach of the Code of Conduct in that:	Exceptions / explanation	Yes	No
3(1)	The subject member may have treated the complainant or someone else with disrespect?			
3(2)(a)	The subject member may have done something which might cause the Council to breach any equality laws?	Can be through direct discrimination, indirect discrimination, harassment or victimisation on the grounds of sex, race, disability, religion or belief, sexual orientation or age.		
3(2)(b)	The subject member may have bullied somebody – including other Councillors, officers or members of the public?			
3(2)(c)	The subject member may have intimidated or attempted to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct?	This section of the Code applies no matter whether the investigation is about the subject Member or is about any other Member.		
3(2)(d)	The subject member may have compromised, or attempted to compromise, the impartiality of someone who works for the Council?			
4(a)	The subject member may have disclosed	Unless any of the following apply:		

Code of Conduct Matrix

Appendix 3

Questions relating to box 3 within Step 1 of the Assessment Flowchart

Para no.	On the basis of the information provided by the complaint, could the allegation(s) made, if they were proven, be a breach of the Code of Conduct in that:	Exceptions / explanation	Yes	No
	confidential information, or information which they believed to be of a confidential nature?	<ul style="list-style-type: none"> • They had the consent of the person authorised to give it; • They were required by law to do so; • The disclosure was made to a third party for the purposes of obtaining professional advice; or • The disclosure was in the public interest. This is only justified when all the following requirements are met: <ol style="list-style-type: none"> 1. the disclosure must be reasonable; 2. the disclosure must be in the public interest; 3. the disclosure must be made in good faith; and 4. the disclosure must be made in compliance with the reasonable requirements of the Council (contained within the Access to Information Procedure Rules). 		
4(b)	The subject member may have prevented anyone getting information that they are entitled to by law?	For example, public documents such as agendas or the register of interests.		
5	The subject member may have brought their office or authority into disrepute?			
6(a)	The subject member may have used, or attempted to use, their position improperly to the advantage or disadvantage of themselves or anyone else?			
6(b)(i)	The subject member may have used or authorised the use of the Council's resources contrary to the Council's requirements?	Contained or referenced within the Member Officer Protocol e.g. Protocol for Members' Use of IT		
6(b)(ii)	The subject member may have used the Council's resources for improper purposes e.g. party political purposes?			
6(c)	The subject member may have failed to have regard to the Local Authority Code of Publicity?			
7(1)(a)	The subject member may have failed to have regard			

Code of Conduct Matrix

Appendix 3

Questions relating to box 3 within Step 1 of the Assessment Flowchart

Para no.	On the basis of the information provided by the complaint, could the allegation(s) made, if they were proven, be a breach of the Code of Conduct in that:	Exceptions / explanation	Yes	No
and (b)	to advice from the Monitoring Officer or Chief Finance Officer where they have given it under their statutory duties?			
7(2)	The subject member may have failed to give reasons for any decision in accordance with statutory requirements or any reasonable additional requirements of the Council?	Councillors in Leeds do not take individual decisions and therefore this paragraph is unlikely to apply.		
9	The subject member may have failed to declare a personal interest at a meeting where the business relates to or is likely to affect an interest which should be recorded on their register of interests?	<p>Unless the personal interest arises:</p> <ul style="list-style-type: none"> solely from their membership of any other body to which they were appointed or nominated by the Council, or any other body exercising functions of a public nature, and they did not speak to the item; through a gift or hospitality received more than three years before the date of the meeting; or through 'sensitive information' which is held by the Monitoring Officer. 		
9	The subject member may have failed to declare a personal interest at a meeting where the business relates to, or is likely to affect, the well-being or financial position of themselves, their family, or a person with whom they have a <u>close personal association</u> , more than it would affect the majority of people in the ward affected?	A <u>close personal associate</u> is someone the member is in regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think they would be willing to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom the member knows through general social contacts.		
10	The subject member may have failed to declare a prejudicial interest at a meeting where the matter affects the financial position of themselves or the <u>relevant person</u> or relates to a <u>licensing or</u>	<p>Unless the matter falls within one the exempt categories of decisions, which include:</p> <ul style="list-style-type: none"> Housing: if the Member holds a tenancy or lease with the Council, as long as the matter does not relate to their 		

Code of Conduct Matrix

Appendix 3

Questions relating to box 3 within Step 1 of the Assessment Flowchart

Para no.	On the basis of the information provided by the complaint, could the allegation(s) made, if they were proven, be a breach of the Code of Conduct in that:	Exceptions / explanation	Yes	No
	<p><u>regulatory matter</u>; and a member of the public, who knows the relevant facts, would reasonably think that their personal interest is so significant that it is likely to prejudice their judgement of the public interest?</p>	<p>particular tenancy or lease;</p> <ul style="list-style-type: none"> • School meals or school transport and travelling expenses: if the Member is a parent or guardian of a child in full-time education or they are a parent governor, unless it relates particularly to the school their child attends; • Statutory sick pay: if they are receiving this, or are entitled to this; • An allowance, payment or indemnity or Members; • Any ceremonial honours given to Members; and • Setting council tax or a precept. <p>A <u>relevant person</u> is a close personal associate or a member of the subject member's family; any person or body who employs or who has appointed the subject member or their close personal associates or family, a firm in which they are a partner, or any company of which they are directors; any corporate body in which the subject member or their close personal associates or family have a shareholding of more than £25,000 (nominal value).</p> <p>Interests which relate to <u>licensing or regulatory matters</u> may include: Considering a planning or licensing application made by the subject member or a body on their register of interests; Licensing Act licenses; pet shop and dog breeding licences; petroleum licenses; street trading licences; taxi licensing; consent, approval or permission pursuant to a contractual</p>		

Code of Conduct Matrix

Appendix 3

Questions relating to box 3 within Step 1 of the Assessment Flowchart

Para no.	On the basis of the information provided by the complaint, could the allegation(s) made, if they were proven, be a breach of the Code of Conduct in that:	Exceptions / explanation	Yes	No
		document such as a lease or commercial contract; street collection permit; or lottery registration.		
12(1)(a)	The subject member may have failed to leave the room when they had a personal and prejudicial interest?	Remember that if members of the public are allowed to make representations, give evidence or answer questions about a matter, a Member with a prejudicial interest can also attend the meeting for that purpose. But they must immediately leave the room once they have finished or when the meeting decides that they have finished (whichever is earlier). They cannot remain in the public gallery to observe the vote on the matter.		
12(1)(c)	The subject member may have sought to improperly influence a decision about the business in which they have a personal and prejudicial interest?	It is not improper for a Member to make written representations in their private capacity, to use a professional representative or the arrange for another Councillor to represent the views of their constituents.		
13(1)	The subject member may have failed to register their interests within 28 days of their election or appointment to office?			
13(2)	The subject member may have failed to notify the Monitoring Officer of any changes to their register of interests within 28 days of a change occurring?			

If the answer to **any** of the above questions is 'YES' there is a potential breach of the Code of Conduct disclosed in the complaint and the **answer to box 3 in Step1 is also YES.**

If the answer to **ALL** of the above questions is 'NO' there is no potential breach of the Code of Conduct disclosed in the complaint and the **answer to box 3 in Step1 is also NO.**

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The Standards Committee – Assessment Sub-Committee

The Standards Committee - Assessment Sub-Committee is authorised to discharge the following functions¹:

1. To receive, consider and initially assess² any written allegations³ of misconduct⁴ made against Members in relation to Code of Conduct Complaints.
2. To receive completed Investigation reports in relation to Code of Conduct Complaints and make the relevant findings under Regulation 17 The Standards Committee (England) Regulations 2008.
3. To receive completed Investigation reports in relation to Local Complaints and make the relevant findings under the Standards Committee Procedure Rules⁵.

¹ 'These 'functions' are discharged both in relation to Leeds City Council and its Members, and parish councils wholly or mainly in its area and the Members of those parish councils.

² Section 57A Local Government Act 2000

³ written allegations made by any person under section 57A Local Government Act 2000.

⁴ "misconduct" for these purposes means a breach of the Members Code of Conduct adopted by Leeds City Council or any of the Parish and Town Councils wholly or mainly within its area.

⁵ SCPR Rule 13.3

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The Standards Committee – Review Sub-Committee

The Standards Committee - Review Sub-Committee is authorised to discharge the following functions¹:

1. To review², upon the request of a person who has made a written allegation³ of misconduct⁴ against a Member, a decision of the Assessment Sub-Committee that no action should be taken in respect of that allegation.

¹ 'These 'functions' are discharged both in relation to Leeds City Council and its Members, and parish councils wholly or mainly in its area and the Members of those parish councils.

² Section 57A Local Government Act 2000

³ written allegations made by any person under section 57A Local Government Act 2000.

⁴ "misconduct" for these purposes means a breach of the Members Code of Conduct adopted by Leeds City Council or any of the Parish and Town Councils wholly or mainly within its area.

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Review of Standards Committee Procedures – Complainants Questionnaire

Making your complaint

1. How easily could you find information about how to submit your complaint?

Very easily	Quite easily	Average	With some difficulty	With a lot of difficulty
<input type="checkbox"/>	1	1	<input type="checkbox"/>	<input type="checkbox"/>

2. How useful was the information on the Council's website and / or in the complaints guidance leaflet?

Very useful	Quite useful	Average	Not very useful	Not useful at all
1	<input type="checkbox"/>	<input type="checkbox"/>	1	<input type="checkbox"/>

3. Did you find the complaints form clear and easy to complete?

Very clear	Quite clear	Average	Not very clear	Not clear at all
<input type="checkbox"/>	1	1	<input type="checkbox"/>	<input type="checkbox"/>

4. Are there any changes we could make to the complaints guidance or form that would improve them?

"When the Councillor has not told the truth or made false statements (in error or on purpose) there is no box to tick on the form. No reason is given for no action taken, because they were Councillors at the time."

5. Did you find the correspondence you received about your complaint to be clear and understandable?

Very clear	Quite clear	Average	Not very clear	Not clear at all
<input type="checkbox"/>	1	<input type="checkbox"/>	1	<input type="checkbox"/>

After the Assessment Sub-Committee meeting

6. Did you find the decision notice to be clear and easy to understand?

Very clear	Quite clear	Average	Not very clear	Not clear at all
1	<input type="checkbox"/>	<input type="checkbox"/>	1	<input type="checkbox"/>

7. What improvements do you think we could make to our decision notices?
More plain to understand.

8. What do you think to the level of detail in the decision notices? Would you have preferred more or less information?

Much more information	Slightly more information	About right	Slightly less information	Much less information
1	<input type="checkbox"/>	1	<input type="checkbox"/>	<input type="checkbox"/>

9. What are your thoughts on whether a summary of the complaint and the decision of the Assessment Sub-Committee should be published on the Council's website?

The summary should be published	The summary should not be published	Not bothered
1	<input type="checkbox"/>	1

Review requests

10. Would you have preferred a form to complete in order to submit your review request?

Yes	No	Don't know
1	1	<input type="checkbox"/>

General comments

11. Please provide us with any other comments you may have about the procedures the Standards Committee uses to consider complaints of misconduct against Members.

"Time length is too long. No information provided about the next stage after second review."

Review of Standards Committee Procedures – Members Questionnaire

Before the Assessment Sub-Committee meeting

1. Would you have preferred not to know that a complaint had been made about you until after the Assessment Sub-Committee had made a decision?

Yes – I would have preferred not to know

No – I preferred to know

3

No preference

2. Did you find the correspondence you received about the complaint to be clear and understandable?

Very clear

Quite clear

Average

Not very clear

1

Not clear at all

2

After the Assessment Sub-Committee meeting

3. Did you find the decision notice to be clear and easy to understand?

Very clear

Quite clear

1

Average

1

Not very clear

Not clear at all

1

4. What improvements do you think we could make to our decision notices?

“N/A”

“Given that there is a complaint against me by a ward resident who is barred from contacting certain officers and departments due to her behaviour to them, I should like to know:

(a) Are there departments also the subject of a complaint by her?

(b) Is the Standards Committee allowed to have this information in order to judge the complaint in context?”

“The template issued by the Standards Board for England gives the flexibility for council’s to give impartial commentary; this currently happens in the way minutes are taken and received by every other committee of council. This committee should be no different. It is perverse that the Chair is the only Member of the Assessment Sub Committee who has sight of the notice. If the detail in the decision notices reflect the reports presented to Assessment Sub Committee Members they are both biased and ill-informed.”

5. What do you think to the level of detail in the decision notices? Would you have preferred more or less information?

Much more information

2

Slightly more information

1

About right

Slightly less information

Much less information

6. What are your thoughts on whether a summary of the complaint and the decision of the Assessment Sub-Committee should be published on the Council's website?

The summary should be published

The summary should not be published

3

Not bothered

7. Were you provided with enough detail about the investigations procedure (if applicable)?

Yes

No

2

Don't Know

1

General comments

8. Please provide us with any other comments you may have about the procedures the Standards Committee uses to consider complaints of misconduct against Members.

"Whilst I appreciate there is no compulsion for the Council to inform members they are being investigated, I think it is appalling that the rules state a Councillor is investigated without being able to make ANY representation - whilst this may be a national ruling it requires challenging by this Council.

I do not believe I was informed within the 20 day period set out in the original letter to me that the complaint was unfounded – we should review if we are keeping to the dates specified in correspondence.

There should be a specific question asked of all complainants appealing decisions - "Under what specific/technical item of the code do you believe the decision made warrants an appeal?" - when the answer comes back of "I don't like the decision" it should be flatly refused for appeal.

Despite national guidance, serial complainants to the council should not be allowed anonymity when they have been through a long process in order to 'achieve' their status of serial complainant. In short this whole procedure is appalling and this guilty-until-proven-innocent style is against one of the fundamental principles of our legal system."

"The process is the single most flawed I have ever seen. There is no process to support Members and no information on the protection afforded to them. There is no objectivity within the reports to the Assessment Sub Committees and no rigour to the process via minutes or report availability to a subject member. The times scales are ignored and Members of the Standards Board are kept in the dark. Information is withheld from those making the decisions. The method by which Members and Parish Members are judged should be in accordance with guidance as opposed to it being a secret process with a single person interpreting the guidance, advising on the policy, assessing complaints, referring complaints for investigations, servicing the investigations, writing the final report and advising the committee."

Please find the comments on behalf of the Liberal Democrat party in relation to the Standards Committee proposals.

Whilst we realise that the new functions of the Standards Committee were imposed by the Local Government and Public Involvement in Health Act 2007 we are disappointed that there was no consultation with Members at a national or local level. Members recognise the value of a Standards Board in being held to account but they need to have some input into the system to ensure that it is fair and transparent so that they can buy into it. This could be addressed by having a consultation with Members to get their views and concerns addressed about the present system.

A choice of at least three dates and times should be offered to Members of the Standards Committee so that they have a greater opportunity of being able to attend a meeting. Alternatively Members should be asked their availability between two dates.

There are concerns that the Standards Committee could be a growing empire when there are sufficient Members at present to fulfil the workload. We're all aware of organisations that grow and then find work to justify their existence but we have to ensure that our residents get Value for Money from our actions.

A group of specially trained councillors could form a 'pool' and be asked to join one of the Sub-Committees similar to the pool system that seems to work well in Licensing.

Notifying the subject member that a complaint has been received is unhelpful without a summary of the complaint - Views are sought as to whether subject members should not be contacted at all until the Assessment Sub-Committee have considered the complaint.

It is felt that a Member should be notified if a complaint is made about them and that the Member should be informed as soon as possible about the nature of the complaint with as much information that can be given within the regulations.

Should the complaints form be amended to allow complaints to be addressed to the Monitoring Officer rather than the Assessment Sub-Committee?

There is a case for the monitoring officer to "filter" complaints which are clearly frivolous and for which there is no case to answer i.e. where none of the criteria are met. This should be done expeditiously to prevent any delay in dealing with the complaints process which is protracted enough as it is, adding another element into the procedures would only prolong matters and can cause distress and concerns to both the complainant and the Member. If anything the process should be speeded up for everyone's benefit.

What is readily obtainable evidence? Is it information within the public domain or information which the Monitoring Officer has easy access to by other means?

The Standards Board has advised the Council how to deal with these queries but would like to know what the documents are that 'a monitoring officer can easily get hold of which are not publicly available'? This raises concerns.

What papers should be provided to the Review Sub-Committee? Should they include the decision notice of the Assessment Sub-Committee? What is the purpose of the Review meeting?

The Standards Board has advised the Council how to deal with these queries and has marginalised the input from Members.

Should only complaints made on the proper form be accepted by the Standards Committee? Should the form have a box to tick to indicate that the complainant is happy for their complaint to be considered by the Standards Committee?

Complaints should preferably be made on the form however if the complainant finds that filling in the form is too difficult and stressful the complaint should be accepted in the format of his/her choice. It could be construed to be discriminatory if the resident found it too hard to complete the form and thus could not make the complaint.

The Sub-Committee Members need to be advised who the subject Members are prior to their attendance being agreed. This will reduce the likelihood of them having a personal / prejudicial interest.

Whilst recognising there may be a problem when the Sub-Committee is made aware of the subject Member's identity which may result in members of that committee having to declare a personal or prejudicial interest, it seems to have worked so far and there are real concerns about the security of using email in the meeting invitation if the subject is identified at that point. It could also be construed to be prejudicial against the Member concerned if his/her name was given at this stage in the proceedings.

Is there a process for dealing with hearsay complaints? i.e. where the alleged 'victim' themselves has not submitted a complaint.

This is not covered by the Standards Board and such complaints should not be countenanced.

The Assessment Sub-Committee should not be given any guidance by officers as to whether or not the allegations could, if proven, be a breach.

It is not felt that there is any need for guidance by officers to be removed from the covering report as this is only guidance.

A subject member needs to be able to see the report that went to the Assessment Sub-Committee in order that they can see full details of the complaint rather than receive a précis as set out in the decision notice and any guidance given by officers.

It is felt that there should be a covering report for each complaint and that Members should see this with the full details of the complaint.

Can other paragraphs of the Code of Conduct be drawn into the investigation later on, or do they need to be specified by the Sub-Committee at the start?

There is Standards Board guidance on this matter which leaves the Council with no alternatives but highlights the reason why elected Members should have been consulted in the first instance.

If the decision of the Sub-Committee is a majority decision, should this be recorded? Also should the minority view be recorded as part of the decision notice and case summary?

Any decision by the Sub-Committee is a collective decision of that committee and should be accepted as such and the details of the meeting will be recorded.

Is both a decision notice and case summary required? Can there just be one document?

In the interests of democratic accountability and transparency the summary of the Assessment or Review Sub-Committees findings should be published on the Council's web site.

The decision notices are too detailed and give the impression that the Assessment Sub-Committee have decided that there is a breach.

See above.

The Assessment Sub-Committee should not in the decision notice set out consideration of each specific allegation separately but rather should just say whether or not they consider there is a breach overall.

See above.

The letter accompanying the decision notice does not say what the next steps are or a timescale within which it is to be carried out.

Covering letters should include timescales for completion of the investigation so that everyone knows what will happen and when.

Service delivery of the insurers under the scheme is poor.

This needs to be addressed urgently so that Members have sufficient cover to indemnify them against a worst case scenario.

Should the case summaries be anonymised?

The case summaries should not be anonymised in the interests of democratic accountability and transparency.

What is the process if the decision notice provokes further correspondence from the complainants? Will this correspondence be included in any subsequent investigation?

This correspondence should not be considered as part of the original complaint otherwise the case could be prolonged. If there is a complaint then it will be treated as a new case.

Review of Standards Committee Process

The Conservative Group wants to make the following observations in respect of the new Local Assessment Procedures:

Given that flexibility is allowed locally on the following issues:

- The administrative processes it chooses to follow;
- Their local assessment criteria;
- The criteria for considering requests for confidentiality; and
- The terms of reference and make-up of the Assessment and Review Sub-Committees.

We would like to make the following broad comments/suggestions regarding the process as a whole before moving on to the specific issues contained in appendix 1.

Administrative process

Complainants should be encouraged to use the proper form, although all written complaints about the Code of Conduct would be accepted.

All complaints should come on the correct form; this would clear up any doubt about the intentions of the complainant and would remove the ability of officers to refer issues to the Standards Committee without it being clear that the complainant intends that course of action.

That officers should produce a covering report for each complaint, including any 'readily obtainable' information which may assist the Assessment Sub-Committee with their decision;

We will come to this later when responding to the specific points in the consultation, but at face value it seems appropriate that the Assessment Committee should be allowed to do the assessing without interference or 'guidance' of any kind. If Members require additional information they can ask for it.

That the Assessment and Review Sub-Committees would produce a decision notice (based on the Standards Board for England template) to advise the complainant and subject Member of their decision, details of any further action and rights of review, and a separate written summary or 'case summary' which would contain less information and be made available for the public to inspect on the Council's website.

We will come to this later when responding to the points in the consultation, but it is clear that this could be open to political manipulation especially around the time of elections.

Local Assessment Criteria

We would like to make a more generalised point here. If we have some freedom to develop a bespoke approach to our assessment criteria in Leeds, why haven't Members been more widely consulted? We have political group representation on the Standards Board but standards issues are not discussed within Groups so that cannot be seen as consultation. Our criteria appear to be based on guidance not regulation so some sensible consultation could be pursued via the Member Management Committee and Full Council meeting in the future.

There is a strong desire amongst Elected Members to be involved in the formulation of a robust Standards system that holds Elected Members to account and is fair, transparent and open. That can only happen if a mature dialogue occurs between the Standards Committee and Members. It is proposed that a joint meeting of the Member Management Committee and the Standards Committee be convened to discuss any final document so broad agreement can be reached.

The criteria for considering requests for confidentiality

We have no general comments.

The terms of reference and make-up of the Assessment and Review Sub-Committees.

Much of this appears to be statutory. However there is perhaps room for greater representation from Leeds City Councillors on Sub-Committees where a complaint against a Leeds City Councillor is being made, on the basis that they will bring greater knowledge and a fuller understanding of the role performed by a City Councillor. In some instances this may not be the case with Parish and Town Councillors.

A comprehensive training programme should be drawn up for Independent and Parish Councillors so they can appreciate the roles of a City Councillor. A range of real life experiences are suggested such as visiting members surgeries, spending a day with members, etc.

Appendix 1 Matters for Review

The Standards Committee does not have the power to sets its Terms of Reference or the processes its adopted. They should be done by Full Council - Members were not consulted about them.

Where there is room for manoeuvre at a local level or where only guidance (as opposed to regulation) has been used as the basis for a procedure being adopted, consultation should have occurred with Members. This could be done through a Full Council meeting which would be a suitable, 'catch all' arena for Members' views. If this approach had been taken Members would have much greater 'buy in' to this process.

Having a delegated decision to approve these changes does not seem appropriate for a set of procedures that are primarily concerned with the activity of Elected Members.

In addition, at the moment the Standards Committee appears to be able to make changes to a number of its key functions without recourse to any other body of the Council.

It is not clear if Parish Councils were consulted in any way on a system that will affect their members. The Parish Members on the Standards Committee have no representative powers.

Notifying the subject member that a complaint has been received is unhelpful without a summary of the complaint - Views are sought as to whether subject members should not be contacted at all until the Assessment Sub-Committee have considered the complaint.

As much information as is permitted under the regulations should be shared with all parties as soon as is possible.

What is readily obtainable evidence? Is it information within the public domain or information which the Monitoring Officer has easy access to by other means?

The Assessment Sub-Committees should come to their own decision without outside influence. Who judges if the information is readily obtainable? The Assessment Sub Committee should assess the case solely on the official form that has been submitted.

What papers should be provided to the Review Sub-Committee? Should they include the decision notice of the Assessment Sub-Committee? What is the purpose of the Review meeting?

A review process only has credibility if it is open to both parties.

Should only complaints made on the proper form be accepted by the Standards Committee? Should the form have a box to tick to indicate that the complainant is happy for their complaint to be considered by the Standards Committee?

The proper form should be used at all times. The complainant needs to be sure that they want to enter into the standards process and that they feel the alleged breach of the code is significant enough. In our view this should not be an assumption made by an officer.

The Sub-Committee Members need to be advised who the subject Members are prior to their attendance being agreed. This will reduce the likelihood of them having a personal / prejudicial interest.

There is no readily understood method of selecting Members to hear complaints. If you advertise for Members to hear a case against X or Y member we believe it would be dangerous practice. That said, the principle of a senior peer group review should prevail. It is right that Parish Member judge fellow Parish Councillors and City Councillors judge City Councillors.

Is there a process for dealing with hearsay complaints? i.e. where the alleged 'victim' themselves has not submitted a complaint.

To progress hearsay complaints would be wholly inappropriate. It is not catered for in the Standards Board Guidance.

The Assessment Sub-Committee should not be given any guidance by officers as to whether or not the allegations could, if proven, be a breach.

As alluded to above the Assessment Sub Committee should be allowed to get on with their job of making their determination with as little interference as possible. Members of the Sub Committee have been through training, are familiar with the Code and relevant guidance. It is not appropriate for an officer to trawl previous Standards Cases attempting to pick out similarities and attempt to present them as “case law”. There should be no officer guidance.

A subject member needs to be able to see the report that went to the Assessment Sub-Committee in order that they can see full details of the complaint rather than receive a précis as set out in the decision notice and any guidance given by officers.

The covering report process is based on guidance *not* regulation. It should be possible for the Committee to deliberate only on the letter provided by the complainant, with appropriate advice **if asked for** at the meeting.

Subject members should be entitled to see any reports submitted to any Committee about them. If a Member chose to judicially review any case such reports would be disclosed as a matter of course.

Can other paragraphs of the Code of Conduct be drawn into the investigation later on, or do they need to be specified by the Sub-Committee at the start?

All matters should be considered at the start of any investigation.

If the decision of the Sub- Committee is a majority decision, should this be recorded? Also should the minority view be recorded as part of the decision notice and case summary?

There seems to be no reason why a Member who is not in agreement with a decision cannot have their views noted on the decision notice if they wish. Again this is only guidance and like other aspects of the procedure based on guidance it could be opened up to consultation.

Minutes of all Standard Committee and Sub Committee Meetings should be taken so there is a true, accurate and reviewable record of decision making. This happens with every other committee of council.

Is both a decision notice and case summary required? Can there just be one document?

With regard to publication of the decision on the Council website, it is our view that making this information public could leave the process open to electoral/political manipulation especially during the election period. Given that other Councils do not publish their decisions perhaps we should consider adopting this.

The decision notices are too detailed and give the impression that the Assessment Sub-Committee have decided that there is a breach.

If the decision notice is to be a public document or be sent to the complainant they should simply reflect how the Sub Committee resolved to progress or not progress with an investigation.

The present arrangements have in the past demonstrated a lack of understanding as to what is and what is not council procedure.

The Assessment Sub-Committee should not in the decision notice set out consideration of each specific allegation separately but rather should just say whether or not they consider there is a breach overall.

If the decision notice is to be a public document or be sent to the complainant they should simply reflect how the Sub Committee resolved to progress or not progress with an investigation.

The letter accompanying the decision notice does not say what the next steps are or a timescale within which it is to be carried out.

There should be a rigid time-table in place for dealing with all complaints. The present arrangements are unsatisfactory. Such arrangements should take into account the subject Member obtaining legal representation via the insurance arrangements of the council. A draft time-table should be worked up and consulted on with Elected Members.

There is a concern that a complainant could make a decision notice public.

There should be binding confidentiality clause upon all parties until the investigation is concluded.

Service delivery of the insurers under the scheme is poor.

Members should be indemnified in the same way officers of the council are. As Elected Member are high-profile representatives of their communities and, in some cases, hold the very highest elected office within the City they should have access to appropriate representation.

Should the case summaries be anonymised?

No, the names of complainants should be made known to all parties to the case. Elected Members are, on a regular basis, targeted by persistent complainers.

What is the process if the decision notice provokes further correspondence from the complainants? Will this correspondence be included in any subsequent investigation?

All relevant information regarding a complaint should be contained within the original form. If the complainant wishes to submit fresh information then a fresh complaint should be made.

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