



# Standards: Procedures for Handling Concerns

<b>Report No:</b>	<b>STC/WS/19/001</b>
<b>Report to and date/s:</b>	West Suffolk Standards Committee – 15 July 2019
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**Decisions Plan:** N/A

**Wards impacted:** All (not directly)

**Recommendation:** It is recommended that the Standards Committee agrees the procedures for handling concerns as set out in Appendix A, and a procedure for considering complaints at Committee, as set out in Appendix B.



## **1. Background / Context**

- 1.1 The Standards Committee is delegated by Council to consider reports from the Monitoring Officer that a West Suffolk Councillor, or a Parish / Town Councillor, has breached the Code of Conduct.
- 1.2 The terms of reference do not specifically state how the Standards Committee should review such complaints, and therefore it would, by default, be assumed that the Committee would consider the report in line with the Committee procedure rules.
- 1.3 In December, the former West Suffolk Joint Standards Committee considered a report from the Monitoring Officer and, following concerns raised after the meeting, the Monitoring Officer committed to undertaking a review of the process used to evaluate complaints, and how they should be considered by the Committee.
- 1.4 It is worth highlighting that the Committee for Standards in Public Life review (as set out elsewhere in this agenda) references a potential revised national framework for dealing with Code of Conduct complaints. This review has been set in that context, learning from good practice without seeking to comprehensively re-establish the Council's current approach before the outcomes of the review are known.

## **2. Proposals**

### Procedures for handling complaints

- 2.1 Previous procedures were adopted by St Edmundsbury Borough Council Standards Committee in 2012, and, when the West Suffolk Joint Standards Committee was formed, it was agreed to adopt the St Edmundsbury procedures. These procedures have been reviewed and in practice, operate in a similar way to that used by other Councils in Suffolk (and many across the Country). This is helpful, as it ensures members of the public can expect a consistent approach wherever possible. As such, these have not been fundamentally rewritten but additional clarity provided in a number of areas.
- 2.2 To simplify the approach:
  - The Monitoring Officer would receive a complaint, and immediately seek the views of the subject on the complaint. Further evidence would be sought and an Independent Person's views obtained. The matter would then either be dismissed; resolved, or referred for further investigation or to the Standards Committee
  - If referred for further investigation, an investigator would be commissioned. Once their report is produced, the Independent Person will provide their views, and the matter either resolved or referred to the Standards Committee to review.
  - Where a breach of the Code of Conduct has arisen, a recommendation would be made on sanctions that should be employed to resolve the matter or avoid it re-occurring.



- 2.3 Whilst the proposed procedures have been developed afresh, there has been particular focus on the following areas:
- Providing clarity where complaints will be dismissed as being politically motivated / vexatious / tit for tat / too long ago to be considered, to ensure complaints are only taken forwards where it is in the public interest to do so
  - Providing clarity on the type of matters that help to determine whether a Councillor is “in capacity” and therefore the Code of Conduct applies to the Councillor at that time;
  - Ensuring the procedures can sufficiently deal with complaints related to social media activity
  - The role of the Parish / Town Council in considering complaints, light of established caselaw
  - Clarity on situations where Councillors fail to comply with sanctions
  - Processes for archiving and disposing of standards files, and links to the Data Protection Act and Human Rights Act
- 2.4 Whilst the Standards Committee does not need to formally sign off these procedures, it is helpful to seek the views of the Committee members. Members may wish to consider whether the procedures feel fair and balanced to both subject and complainant; whether members are satisfied with the guidance to the Monitoring Officer on the judgements they may make; and the balance between what type of complaints they would wish to consider versus complaints the Monitoring Officer resolves.
- 2.5 Considering complaints at committee is a more challenging judgement. There are essentially two core approaches that could be used:
- 2.5.1 The Committee considers a report, which incorporates the Independent Person’s views, associated evidence, and the subject / complainant have a chance to comment in writing on the report. The Committee makes a view on the report alone
- 2.5.2 The Committee undertakes a hearing, which offers the subject the opportunity of formal representation and witnesses. Committee members can cross-examine the subject, witnesses etc before adjourning to determine whether the code has been breached.
- 2.6 Comparisons of other Councils indicate that there are a variety of practices in place, but they generally fit to either the first or second approach outlined above. In principle, the first approach is more straightforward; the committee makes a judgement based on the written evidence before them and reaches a conclusion. The second approach may be seen as more thorough but can also be more challenging for those involved in the process, including the committee members. It is worth bearing in mind that even if Councillors have been deemed to have breached the Code of Conduct, there are limited sanctions for Councillors which has led some Councils to consider that a more formal hearing process is disproportionate to the outcome.
- 2.7 With this in mind, two different approaches are included in Appendix B, reflecting the more straightforward procedure and the hearing procedure. The Standards Committee is asked to indicate which option they would prefer to operate to.



- 2.8 In bringing forward this paper, the Monitoring Officer is conscious that several members are new to the Committee and will be aiming to bring this back before the Committee in 12-18 months to ensure they remain satisfied with the proposals

### **3. Alternative Options**

- 3.1 Whilst the proposed procedures have been developed with regard to other practices adopted at Councils in the area and around the country, there are various different models in operation – for example, there are some Councils that have sub-committees for considering complaints whilst others have delegated all decision making on complaints to the Monitoring Officer.

### **4. Consultation and engagement**

- 4.1 No specific consultation / engagement has been undertaken on this report.

### **5. Risks**

- 5.1 Failure to deal with a standards issue appropriately could lead to the risks of legal challenge to decision making; loss of public confidence, and potential poor behaviour going unaddressed.

### **6. Implications arising from the proposal**

- 6.1 This report has been written bearing in mind the Council's relevant legal obligations in handling such complaints, and other associated legal obligations arising from, for example, the Equalities Act; the Human Rights Act and the Data Protection Act.
- 6.2 This report does not have a direct impact on resources, however should the committee be minded to change the way in which complaints are reviewed, then there may be resource implications which would need to be considered.

### **7. Appendices**

- 7.1 **Appendix A:** Proposed Procedures for Handling Standards Complaints  
**Appendices B1 & B2:** Proposed Committee Procedure for Considering Complaints

