

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

18 May 2009

Complaint Investigation and Determination Procedures

1.0 PURPOSE OF REPORT

- 1.1 To consider revised draft procedures for the local investigation and determination of complaints.

2.0 BACKGROUND

- 2.1 The Standards Committee (England) Regulations 2008 provide for the local receipt, assessment, investigation and determination of complaints that Members may have breached the Code of Conduct, by local standards committees.
- 2.2 At its meeting on 2 February 2009, the Committee agreed a procedure for the local assessment of complaints and the review of any decision to take no action on a complaint. The procedure has been published on the Council's website in the 'Councillor conduct' section (Homepage/Council and democracy/Councillors/Councillor conduct).
- 2.3 Procedures regarding the investigation and determination of complaints are currently dealt with in the Committee's Protocol for Local Determination of Complaints, which has been reviewed to take account of the new local standards regime.

3.0 DRAFT COMPLAINTS INVESTIGATION AND DETERMINATION PROCEDURES

- 3.1 First full drafts of revised versions of the Procedures have been prepared on the basis of the relevant Standards Board Guidance documents, to which there is a statutory duty to have regard. Work is continuing to shape and simplify the Procedures so that they can be presented to the Committee at its next meeting for Members' approval.
- 3.2 In the meantime, given recent complaint activity, it is recommended that the Committee adopts a short, pro-tem procedure under the new local regime for each of the investigations and determinations stages incorporating, by reference, the procedures for investigations and determinations set out in the legislative framework and the Standards Board Guidance. Such interim procedures are attached at Appendix 1 for Members' approval, subject to any comments they may have.
- 3.3 The draft substantive procedures will be brought to the next meeting of the Committee for approval, subject to Members' comments.
- 3.4 There is a statutory duty on the Authority to publish, in such manner as it considers appropriate, details of the procedures it will follow in relation to complaints against Members that they may have breached the Code. It is therefore recommended that, if approved by Members, the interim Complaint Investigation and Determination Procedures should be published on the Authority's website alongside the Complaints Assessment Procedure, and the full procedures substituted for them in due course, once approved.

4.0 RECOMMENDATIONS

- 4.1 That, subject to any comments they may have, Members approve the draft interim Complaints Investigation and Determination Procedures attached at Appendix 1 to this report and agree that they be published on the County Council website and in any other ways Members deem appropriate.

CAROLE DUNN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Documents:

The Standards Committee (England) Regulations 2008

The Local Government Act 2000, as amended

Standards Board for England's Guidance "How to conduct an investigation"

Standards Board for England's Guidance "Local Investigations and Other Action"

Standards Board for England's Guidance "Standards Committee Determinations"

County Hall
NORTHALLERTON

14 May 2009

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

COMPLAINT DETERMINATION SUB-COMMITTEE

COMPLAINT INVESTIGATION PROCEDURE

The Local Investigation of Complaints against Members

1.0 INTRODUCTION

- 1.1 North Yorkshire County Council (“the Authority”) has adopted a Code of Conduct for Members, based on the statutory national model. The Code applies to the Members of the Authority and voting co-opted Members on Authority Committees, eg the independent Members on the Authority’s Standards Committee, and the phrase “Member” within this procedure refers to all such Members.
- 1.2 The Standards Committee (England) Regulations 2008 provide for the local receipt, assessment, investigation and determination of complaints that Members may have breached the Code of Conduct, by local Standards Committees.
- 1.3 The Standards Committee has established various Sub-Committees, each chaired by an independent Member, to deal with the different stages in the complaints process:
- i. a Complaint Assessment Sub-Committee (“Assessment Sub-Committee”), to receive and assess complaints that Members may have breached the Code;
 - ii. a Complaint Review Sub-Committee (“Review Sub-Committee”), to review Assessment Sub-Committee decisions to take no further action on complaints, where requested to do so by complainants; and
 - iii. a Complaint Determination Sub-Committee (“Determination Sub-Committee”), to consider investigation reports and conduct hearings determining complaints, following investigation;
- with fixed Membership and substitute lists.
- 1.4 The Committee’s Complaint Assessment Procedure sets out what types of complaints against Members may be made to the Standards Committee, how such complaints should be made, the type of information they should contain and the procedures which will be followed in receiving, assessing and, if required, reviewing such complaints.
- 1.5 The SBE (“SBE”), an independent, national body, is a key part of the ethical framework, providing advice and guidance to authorities on the framework and acting as a ‘light touch’ regulator. The Board may still investigate certain, more serious, complaints in particular, limited circumstances. The SBE website (www.standardsboard.gov.uk) contains further information about the ethical framework generally.

2.0 **SCOPE OF PROCEDURE**

- 2.1 This procedure shall be followed by the Monitoring Officer and any Officer appointed to carry out a local investigation of a complaint under the Members' Code of Conduct ("the Investigating Officer").
- 2.2 The procedures for the initial receipt, assessment and, if required, review of assessment decisions to take no action on a complaint and for the determination of complaints are set out in separate protocols.
- 2.3 A detailed procedure for the investigation of complaints that Members may have breached the Code, based on the legislative framework and relevant Standards Board Guidance, is currently being finalised and will be substituted for this interim procedure in due course.
- 2.4 Until the detailed investigation procedure is approved by the Standards Committee, this interim investigation procedure shall be followed.

3.0 **INVESTIGATION PROCEDURE**

- 3.1 All investigations undertaken under the local standards regime shall comply with the relevant provisions of, and procedures set out within, the Local Government Act 2000 (as amended), the Standards Committee (England) Regulations 2008 and the Standards Board guidance documents "Local Investigations and Other Action" and "How to Conduct an Investigation".
- 3.2 Regard should also be had to the Standards Board's Local Investigation Toolkit documentation, which may be used or adapted for use as appropriate during the conduct of the investigation.

May 2009

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

COMPLAINT DETERMINATION SUB-COMMITTEE

COMPLAINT DETERMINATION PROCEDURE

The Local Determination of Complaints against Members

1.0 INTRODUCTION

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2.0 **SCOPE OF PROCEDURE**

- 2.1 This procedure shall be followed by the Standards Committee and/or all relevant Sub-Committees when dealing with the determination of complaints that Members may have breached the Code of Conduct.
- 2.2 The procedures for the initial receipt, assessment and, if required, review of assessment decisions to take no action on a complaint and for the investigation of complaints are set out in separate protocols.
- 2.3 A detailed procedure for the determination of complaints that Members may have breached the Code, based on the legislative framework and relevant Standards Board Guidance, is currently being finalised and will be substituted for this interim procedure in due course.
- 2.4 Until the detailed determination of complaints procedure is approved by the Standards Committee, this interim determination procedure shall be followed.

3.0 **DETERMINATION PROCEDURE**

- 3.1 All determinations of complaints undertaken under the local standards regime shall comply with the relevant provisions of, and procedures set out within, the Local Government Act 2000 (as amended), the Standards Committee (England) Regulations 2008 and the Standards Board guidance document "Standards Committee Determinations".
- 3.2 Regard should also be had to the Standards Board's Local Determinations Toolkit documentation, which may be used or adapted for use as appropriate during the determination of a complaint.

May 2009