

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

8th June 2011

DOCUMENTATION ACCOMPANYING REPORTS TO ASSESSMENT AND REVIEW SUB-COMMITTEES

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| Relevant Portfolio Holder | Councillor Mark Bullivant |
| Relevant Head of Service | Claire Felton, Monitoring Officer and Head of Legal, Equalities and Democratic Services |

1. SUMMARY OF PROPOSALS

- 1.1 The Committee has previously decided on the documentation available to Assessment and Review Sub-Committees when assessing a complaint that a Member might have failed to follow the Code of Conduct.
- 1.2 At its meeting on 19th May 2010 the Committee reviewed the documentation made available to the Sub-Committees and agreed that its existing policy should, in general terms, remain the same, with a further review in this regard to take place after 12 months.
- 1.3 The Committee is therefore asked to review the current policy and to determine whether it wishes to make any changes in this regard.

2. RECOMMENDATIONS

That the Committee decides whether it wishes to make any revisions to its current policy on the documentation made available to the Standards Assessment and Review Sub-Committees.

3. BACKGROUND

- 3.1 Local assessment of complaints was introduced in May 2008. On the advice of Standards for England it was agreed by the Committee that Assessment and Review Sub-Committees would be presented with the complaint accompanied by a short standard covering report and any publicly-available documentation which related to the facts at issue. Publicly-available documentation was specifically defined as including tape recordings of formal Council and Committee meetings and transcripts thereof. Officers have interpreted "publicly available documents" as documents which are available to all members of the public, such as agendas, reports, minutes of meetings, extracts from the Register of Members' Interests, information at the Land Registry, Companies House etc. The only caveat to that is when a complainant refers to a document in the complaint but does not supply a

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copy of it, officers will invite the complainant to provide it for the benefit of the assessment process.

- 3.2 Since the decision on the documentation to be made available was made by the Standards Committee in 2008, Standards for England has revised its guidance which now states that officers may provide the Assessment Sub-Committee with:

“any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:

- a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
- b) minutes of meetings
- c) a copy of a member’s entry in the register of interests
- d) information from Companies House or the Land Registry
- e) other easily obtainable documents

Officers may also contact complainants for clarification of their complaint if they are unable to understand the documentation submitted.

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member. Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee’s decision or make the decision for it.”

- 3.3 On 19th May 2010 Members were asked to consider whether the Committee should revise its policy on what documentation should accompany a report to an Assessment Sub-Committee relating to a complaint. The matter arose following a request from an Assessment Sub-Committee for clarification from the Standards Committee as to whether the policy could be revised to enable officers to provide the Sub-Committee with Assessment Criteria forms completed at a previous Sub-Committee meeting in relation to an earlier complaint. In that case officers took the view that these forms did not fall within the definition of publicly-available documentation. However, such documentation might fall within the Standards for England definition of “other easily obtainable documents”.

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- 3.4 At the meeting on 19th May 2010 the Deputy Monitoring Officer advised Members that the current process protected the Sub-Committees from criticism and made clear what information would be received by the Sub-Committees, therefore removing the need for the Monitoring Officer to exercise discretion or subjectivity in the preparation of her report. The Committee resolved that the policy on documentation should, in general terms, remain the same, subject to it being noted that the Sub-Committees could always make a request to the Monitoring Officer for a piece of information to be made available, which the Monitoring Officer would in turn then report back on in the circumstances identified. It was further agreed that a review of the process take place after 12 months.

4. KEY ISSUES

- 4.1 To date, the Monitoring Officer and her team have interpreted the Committee's policy literally so as to avoid a situation whereby she and her officers are effectively carrying out a mini-investigation before a complaint has been assessed by deciding what information might be relevant and then locating it. Officers consider that this works well, although recognising that Members of Sub-Committees can find this frustrating at times. Members will recall, of course, that the purpose of assessment and review is simply to determine whether or not the complaint discloses a potential breach of the Code of Conduct which merits investigation.
- 4.2 If Members are minded to broaden the Standards Committee's policy to the wider wording suggested by Standards for England, namely "easily obtainable information", Members are requested to give clear guidance to the Monitoring Officer as to the extent to which she is expected to identify and search for relevant documents, and whether these should include documents which would not be available to members of the public or elected Members; Members will recognise that the current system removes the need for the Monitoring Officer to exercise discretion or subjectivity in the preparation of the report, but that widening the scope will require her to do so. This might potentially compromise the impartiality of the Monitoring Officer. The Committee is requested to bear this in mind when reaching its decision.

5. FINANCIAL IMPLICATIONS

None

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6. LEGAL IMPLICATIONS

- 6.1 The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by the Local Government and Public Involvement in Health Act 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.
- 6.2 The Local Government Act 2000 s57(5) enables Standards for England to issue guidance to local authorities. This guidance is not mandatory.

7. POLICY IMPLICATIONS

Any alterations to the procedure or policy relating to the local assessment of complaints does not need full Council approval.

8. COUNCIL OBJECTIVES

N/A

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: Legal, Equalities and Democratic Services

Key Objective Ref No: 2

Key Objective: Effective ethical governance

10. CUSTOMER IMPLICATIONS

If the Committee decides to change its policy the revised policy will be included in the Guidance issued by the Council on complaints against Members, which is available on the Council's website and is sent out to members of the public and organisations on request.

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11. EQUALITIES AND DIVERSITY IMPLICATIONS

None

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

None

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

None

14. HUMAN RESOURCES IMPLICATIONS

None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

None

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

None

17. HEALTH INEQUALITIES IMPLICATIONS

None

18. LESSONS LEARNT

These are set out in the report.

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

None

20. OTHERS CONSULTED ON THE REPORT

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| Portfolio Holder | No |
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| Chief Executive | No |
| Executive Director (S151 Officer) | No |
| Executive Director – Leisure, Cultural, Environmental and Community Services | No |
| Executive Director – Planning & Regeneration, Regulatory and Housing Services | No |
| Director of Policy, Performance and Partnerships | No |
| Head of Service | Yes |
| Head of Resources | No |
| Head of Legal, Equalities & Democratic Services | Yes |
| Corporate Procurement Team | No |

21. WARDS AFFECTED

All wards

22. APPENDICES

None

23. BACKGROUND PAPERS

None

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