

LOCAL DETERMINATION OF COMPLAINTS: THE FIRST YEAR**Report of Monitoring Officer**

Statutory Powers: Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007

Financial Implications: There are no actual financial implications in this report but if complaints continue to require investigation at the current rate, or the Committee wishes to increase its activity in promoting and maintaining high standards of conduct, or both, there would be pressure on the current budget.

Purpose: To examine the first year of operation of the new local determination procedures, to see how we did and where improvements can be made

(This links with Council Priority CP5 – working with others to increase access to services)

RECOMMENDATIONS

That the Committee RESOLVES –

(1) to RECOMMEND TO COUNCIL that there be established a Hearing Sub-committee of the Standards Committee; and subject to such approval,

(2) that the Monitoring Officer be requested to devise a new schedule for meeting of sub-committees of this Committee for Assessment, Review and Hearings in accordance with paragraph 11 of this report.

Background

1. On 8th May 2008 this Committee became responsible for overseeing the local determination of complaints. All complaints about the conduct of members of this council and the town and parish councils within its area are now referred for assessment and, if thought fit, investigation and determination by this Committee. At its meeting on 28th May 2008, this Committee examined the then new requirements of the Standards Board for England for local determination of complaints and resolved to recommend to Council -

- (1) that it establish an Assessment Sub-committee and a Review Sub-Committee;
- (2) that it would work in partnership with West Devon Borough Council and Teignbridge District Council for reciprocal referral of reviews of complaints; and
- (3) that it authorise the Monitoring Officer to co-opt up to two independent members of the West Devon or Teignbridge Standards Committees

(minute S4/08 refers). The Committee approved procedures for dealing with complaints very much on a trial basis, to see what would work and adjustments have been made from time to time. More fine tuning is described below.

The Issues

Membership

2. Co-option of independent members was intended to address the potential difficulty of having too few members on this Committee to deal with complaints. In fact it has never been necessary to co-opt any additional members and on 5th February 2009 Council approved the recommendation of the Scrutiny Group and the Executive that the Committee's membership be increased to eight (two members of Council, three parish representatives and three independent members: Council minute 79/08 refers).

3. Two new representatives of parish councils were appointed on 26th March 2009 (Council minute 90/08 (2) refers) and as this report is being written we await confirmation of the appointment by Council of a third independent member. The Committee will then be of a size approved by Standards for England (the erstwhile and renamed Standards Board for England). The only disappointment is that all the members are white able-bodied men. Members may wish to consider asking the Council to appoint a female District Councillor to the Committee in future, or targeting women and minority groups in the next round of recruitment for parish or independent representatives.

Procedures

4. The procedures for the assessment, review and hearing of complaints were jointly developed by the Monitoring Officers of South Hams, Teignbridge and West Devon Councils working together, not only at the beginning of the new regime but since as new issues, particularly detailed hearing procedures, have had to be devised. It is not overstating the case to say that without that additional (mutual) support we would as Monitoring Officers each have struggled on occasion during this year and I am grateful to my colleagues for their willing and thoughtful responses when required. What we have devised seems to have worked well, save for the time taken to resolve cases; of which more below. Accordingly we plan to continue the joint and reciprocal approach.

Statistics: complaints considered in 2007/08 and 2008/09

5. The following table contains a summary of the outcomes of cases considered by the Committee, comparing the last year of the "old" system whereby the Standards Board of England referred investigated cases for hearing with the first year of the new system where the Committee is responsible for the whole process:

No of complaints	2007/08 Referred by SBE		2008/09 Direct complaints	
	District	Parish	District	Parish
Total received	0	4	5*	6*
Assessed: no failure to comply with Code	0	2	2	3
Reviewed and no failure to comply	n/a	n/a	1	1
Reviewed and further action required	n/a	n/a	0	0
Investigation outcome awaited	0	0	1	0
Referred for local hearing	0	1	1	3
Referred to APE		1	0	0
No failure found	0	0		2
No infraction found	0	0	n/a	n/a
Breaches of Code found	0	2	1	1
Action taken	0	(1) no sanction (2) disqualification 3 years	Suspended 3 months	Censure + letter of apology

* Two complaints were against members of the District Council who were also parish councillors and are counted in both columns

Timeliness

6. In 2008/9 the time taken from receipt of complaint to –

- Assessment: averaged 41 days
- Review: averaged 104 days
- Outcome of investigation: averaged 344 days.

7. These times are not satisfactory in that both complainants and the subject members have had to wait quite a long time for any outcome. "Delayed justice is justice denied." The length of time can be attributed to two major causes:

(a) the fact that the sheer number of complaints requiring investigation has put severe pressure on the resources, that is to say staff investigating officers, available to the Monitoring Officer.

8. Staff have to accommodate this work alongside the "day job" whose own pressures are often irreconcilable. Unavoidably, two investigations were outsourced at a total cost of £3,780. This was affordable but is not a sustainable solution as the Monitoring Officer's total budget is £9,200. The Council is obliged by law to ensure that the Monitoring Officer has sufficient resources and this position is being kept under review. The number of cases requiring investigation will vary year on year but if the present level of investigations continue, and no additional resources can be made available (as is assumed to be the case) then it will be much more difficult to achieve a reduction in the length of investigations;

(b) the fact that the Committee is scheduled to meet only once a month. The Standards Board has expressed concern that complaints are taking too long to get to the assessment sub-committee. It should under the Regulations take 20 days. Where there is only one meeting a month that target is more likely than not to be exceeded.

9. The solution to that problem is to schedule more meetings. It could be done now, as there are more members of the Committee, without increasing significantly the call on members' time, so long as members are prepared to amend the original concept that all should sit in all cases in order to get experience.

10. We could devise a schedule for three panels of three to five members meeting in rotation once a fortnight, more or less, either as an Assessment Sub-Committee, or as a Review Sub-Committee, or a Hearings Sub-Committee depending on the business to be transacted. If there were no business the meeting would be scratched. Each panel would include an independent member (in the chair), one parish member and one elected member but substitution could be allowed if any individual were unavailable or conflicted out of sitting, or conversely if it were important that the same members sit (for example for continuity in any one case). We would allow for the fact that there are three new members who have less case experience and who would benefit from sitting more often.

11. Members are invited to consider this proposal, noting that it contemplates that Council be asked to set up a Hearing Sub-Committee. We didn't do that at the outset but if, in the light of experience Members are so minded you might recommend Council to do it now.

Public Awareness

12. Members cannot fail to have noticed the debate in the letters pages of local papers about the Committee's recent decision in case no.SH04/170708 (Cllr Brazil). That case is closed and should not be discussed at this meeting, but the correspondence indicates that the community does not understand what the Committee is established to do, nor how nor why. It is not acceptable that there should be such a level of ignorance about a service designed to ensure public confidence in high standards of probity and conduct amongst local elected representatives and the Monitoring Officer, recognising that the Council is at fault in not ensuring that there is better public knowledge, has taken steps to improve the information available on the Council's website. That should be in place at the time of, or shortly after, this meeting.

Feedback from participants in the complaints process

13. The Monitoring Officer plans to ask a selection of the people involved in the complaints considered by the Committee so far how they found the experience and what could have improved it for them. The results of that survey, which will be shared with the partner authorities, will be reported to a later meeting of this Committee in order that it might inform further developments of our case handling processes.

Risk Assessment

14. The following are the significant risks and opportunities identified:

Opportunity	Issues / Obstacles	Benefits
To use experience gained in the first year to improve complaints handling for complainants, "subject" members and members of the Standards Committee.	Lack of resources; the new system has been introduced with no additional resources provided to administer it and there has been pressure within the system as a result. The position is being kept under review.	A clear and effective system for promoting and maintaining the probity of members will give the public confidence that this Council and the town and parish councils in the area are operating to high standards.

Conclusion

The first year of operation of the new complaints system has not been without its challenges, particularly over the length of time some of the cases have taken but there are opportunities to improve that.

Delyth Jenkins Evans
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Standards
21st July 2009

Background Documents:

Local Government Act 2000

Local Government and Public Involvement in Health Act 2007

South Hams DC complaints handling procedures

Files held by the Monitoring Officer (some of which contain material that is not open to the public)