



Leicester
City Council

WARDS AFFECTED
All Wards

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
STANDARDS COMMITTEE**

4TH FEBRUARY, 2009

REVIEW OF ASSESSMENT CRITERIA

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To enable the Standards Committee to review the assessment criteria to be applied by its Standards Assessment Sub-Committee and Standards Review Sub-Committee when considering what action to take in respect of a complaint that a Member has acted in breach of the Code of Conduct.

2. RECOMMENDATIONS

The Committee is asked to review its current assessment policy and criteria generally and to agree to updating its policy and criteria in respect of vexatious complaints, hearsay evidence and application to “meetings” as summarised in this report.

3. REPORT

The Standards Committee must have an assessment policy and criteria for use by its Assessment and Review Sub-Committees. When the Sub-Committees were established it was decided to adopt Standards Board guidance as its policy and criteria, without any amendment or addition. .

The Standards Committee should, in line with Standards Board guidance, keep under review its assessment policy and criteria to ensure that it is up to date and enables fair and consistent implementation at local level.

There have been three issues, in particular, which require the assessment criteria / policy to be reviewed and updated:

- i. **Vexatious complaints** – if the Monitoring Officer receives a written complaint which alleges that there has been a breach of the Code by a Member it must be referred to the Standards Assessment Sub-Committee for consideration. The Monitoring Officer has very little by way of discretion to filter out inappropriate complaints.

Complaints can, on occasions, be vexatious. It is for the Standards Assessment Sub-Committee to reject these. No specific guidance is available from the Standards Board but the Information Commissioner, who oversees matters such as Data Protection, and Freedom of Information Act compliance, has issued useful guidance:

“While giving maximum support to individuals genuinely seeking to exercise the right to know, the general approach is that a request (which may be the latest in a series of requests) can be treated as vexatious where:

- * it would impose a significant burden on the public authority in terms of expense or distraction.

And meets at least one of the following criteria:

- * it clearly does not have any serious purpose or value.
- * it is designed to cause disruption or annoyance.
- * it has the effect of harassing the public authority.
- * It can otherwise fairly be characterised as obsessive or manifestly unreasonable”

It is recommended that similar criteria be adopted and included in the Standards Committee’s assessment criteria.

- ii. **Hearsay evidence** – this is, in effect, second hand evidence. The question arises to what extent it can be taken into account.

The law relating to hearsay evidence has developed over the years but, in brief, civil courts do now allow reference to and “admit” civil evidence but appropriate weight is given. It is recommended that a similar practice be continued by the Standards Committee and its Sub-Committees.

At assessment stage it is not for the Assessment / Review Sub-Committees to weigh up the evidence or commence an investigation. The task at that stage is to consider whether the facts presented, if proven, would show a breach of the Code by the subject member at the time of the alleged misconduct.

- iii. **Meeting** – the definition of “meeting” for the purpose of the Code has been questioned.

In addition to having to register interests, Members must declare any personal interest they may have at a “meeting” of the Authority.

In fact the Code itself defines “meeting” as any meeting of:

- a. the Authority
- b. the Executive of the Authority
- c. any of the Authority’s or Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Area Committees.

“Member” includes co-opted member and an appointed member.

So “meeting” includes all meetings of Council, its Regulatory Committees, Sub-Committees, Cabinet, Sub-Committees, Community meetings, meetings of Scrutiny.

Cabinet has used its legal powers to delegate executive decision making to individual Cabinet Members. A decision by an individual Cabinet Member may well be taken outside a meeting. For a meeting in law to take place there has to be two decision makers.

However, this does not mean that the Code does not apply to individual Cabinet Member decision making because they must “not seek improperly to influence a decision about the business in question”. When individual Cabinet Members make decisions they will have to make it clear on the written record whether or not they have a personal /prejudicial interest.

Further it is custom and practice in Leicester for interests to be declared even in informal meetings e.g. Cabinet Briefing.

It is suggested that the Code itself is sufficiently clear on the question as to what constitutes a “meeting”.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None at this stage.

4.2 Legal Implications

These are covered in the report.

5. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	No		
Policy	No		
Sustainable and Environmental	No		
Crime and Disorder	No		
Human Rights Act	No		
Elderly/People on Low Income	No		

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Relevant legislation and Standards Board guidance.

7. CONSULTATIONS

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8. REPORT AUTHOR

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