

**BABERGH DISTRICT COUNCIL**

**FROM: The Monitoring Officer**

**REPORT NUMBER: G233**

**TO: STANDARDS COMMITTEE**

**DATE OF MEETING: 26 March 2008**

**PROCEDURAL CONSIDERATIONS UNDER THE REVISED ETHICAL FRAMEWORK**

**1. PURPOSE OF REPORT**

- 1.1 To appraise members of the outcomes from the meeting of Monitoring Officers, Chairmen and Independent Members of Standards Committees held on 4 March 2008 and the preparations for implementation of the new Code of Conduct complaints procedure.

**2. RECOMMENDATIONS TO COUNCIL**

- 2.1 That the Monitoring Officer be authorised in consultation with the Chairman of Standards Committee to agree the assessment criteria for Code of Conduct complaints as outlined in Appendix 1 for use by the Standards Committee as interim guidance pending further County wide discussion once the regulations and guidance are published
- 2.2 That the Monitoring Officer be authorised in consultation with the Chairman of Standards Committee to update the criteria in Appendix 1 in accordance with a County wide approach
- 2.3 Subject to regulations and guidance, that the Monitoring Officer be authorised to publicise the Code of Conduct complaints procedure under the 2007 Act through:
- (a) the production of a single style and content leaflet containing details of all Suffolk authorities and a complaint form to be made available throughout the County
  - (b) a joint advertisement on behalf of all Suffolk authorities in at least one local newspaper
  - (c) information and complaint form available on the Council's website
  - (d) an article in the '*Babergh Matters*' publication
- 2.4 That Code of Conduct complaints are kept separate from the existing corporate complaints procedure
- 2.5 That complaints made anonymously should not be accepted but requests for anonymity to be considered by the Standards Committee.

- 2.6 Subject to contrary legal provision, that the complaint and all information relating thereto shall remain confidential until the issue of confidentiality has been determined at a hearing before the Standards Committee
- 2.7 Subject to ratification by full Council, that reviews of a decision by the Standards Committee not to refer a complaint for investigation be conducted by the Standards Committee of another authority and the Monitoring Officer be authorised to refer reviews accordingly.

The Committee is asked to make recommendations to Council on these matters.

**3. FINANCIAL IMPLICATIONS**

- 3.1 There will be costs in advertising the new complaints procedure in a local newspaper and the production of a leaflet with complaint form, but these costs will be shared among the Suffolk authorities. Precise details of the level of cost are not known at this stage.

**4. RISK MANAGEMENT**

- 4.1 This report is most closely linked with the Council's Significant Business Risk No. 4 (Governance). Key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
Suffolk Standards Committees adopt different criteria or approach in discharging functions under the 2007 Act leading to inconsistency between Committees and increased cost if separate arrangements need to be made.	Low	Negligible	Joint meetings with Chairmen and Independent Members held to agree key steps  Sharing of information among Monitoring Officers

**5. KEY INFORMATION**

- 5.1 The Committee has previously considered the proposed changes to the Code of Conduct complaints procedure (see reports G180 and G181) and a response has been submitted to Communities and Local Government on the draft regulations as discussed by the Committee at its meeting on 25 January 2008. At the time of writing the finalised regulations have not been published. The absence of the regulations and associated guidance from the Standards Board for England has impeded progress in finalising the steps and arrangements to

be taken in furtherance of the new statutory duties. However, at a meeting between Monitoring Officers, Chairmen and Independent Members of Standards Committees on 4 March 2008, discussion took place on the general principles and approach to be taken as interim measures.

- 5.2 The discussion focused on five areas arising in the draft regulations and draft guidance. The first issue concerned the assessment criteria to be applied in determining whether a complaint should be investigated. Naturally, the Committee must firstly be satisfied that the Code of Conduct does apply before considering the detail of the complaint and criteria suggested by the Standards Board. It was agreed by those at the meeting that the same criteria should be applied across Suffolk on an interim basis with review once the regulations and updated guidance have been published. It was further agreed that issues of uncertainty in assessing the complaint should, in the public interest, be interpreted in favour of the councillor complained against. The updated criteria, as agreed at the meeting, will be circulated at Committee if available.
- 5.3 The second issue concerned the duty to publish a notice in at least one local newspaper detailing the new complaints regime and the ongoing responsibility of the Committee to use best endeavours to bring the arrangements to the attention of the public. It was agreed that the best and most cost effective approach would be for one advertisement to be placed on behalf of all Councils in the East Anglian Daily Times and Eastern Daily Press. Likewise, a leaflet should be produced for use throughout the County which would provide details of all the Suffolk councils and to whom complaints should be sent. A complaint form would be included within the leaflet. All Councils would use their websites to publicise the leaflet and complaint form. A slot has also been requested by the Monitoring Officer for an article within '*Babergh Matters*' which is distributed to all households within the District
- 5.4 Thirdly, discussion took place as to whether standards complaints should be integrated within authorities existing corporate complaints procedures or kept distinct. The consensus was that the procedures should be kept separate. It was noted that the Standards Board will be producing a complaint form which could be adapted for use.
- 5.5 The fourth issue focused on anonymity. Members agreed that complaints cannot be made anonymously, but that there should be provision within the complaint form for the complainant to request anonymity with reasons cited. The request would then be considered by the Committee in conducting the initial assessment. If the Committee determines that the complainant cannot remain anonymous, then the Monitoring Officer would establish whether the complainant wishes to pursue their complaint.
- 5.6 It was further agreed that requests for anonymity on grounds of physical harm or impact upon an officer's employment should be considered objectively rather than being determined on the individual's belief. There should also be a further category for requests for anonymity on any other grounds that the complainant must explain.
- 5.7 Finally, it was noted that there is conflicting advice and guidance on the issue of confidentiality of the complaint documentation and proceedings. It was agreed that unless there is contrary legal provision, the paperwork should remain

confidential until the hearing is opened at which point the Committee will resolve whether any part of the documentation is exempt from publication.

6. **APPENDICES**

Appendix 1 – Discussion Papers 1- 4 (Can be provided upon request)

7. **BACKGROUND PAPERS REFERRED TO:**

None

**CONTACT: Kathryn Seward**

**DIRECT LINE: 01473 825729**