



STANDARDS COMMITTEE
25 June 2008

**Local Assessment of Allegations of Misconduct by a Member:
Establishing the New Regime**

PURPOSE OF REPORT: To decide

This report sets out what the changes will be to the system of handling complaints against members, and the issues that the Authority needs to address in order to meet these new requirements.

From National to Local Initial Assessment of Standards Complaints

1. Since 8 May 2008, any formal complaint of misconduct about a Surrey County Councillor must be made to the Standards Committee. This was the final step required to make the entire process for investigating and handling complaints about Member conduct a locally managed process.

This report sets out what the changes will be to the system of handling complaints against members, and the issues which the Authority needs to address in order to meet these new requirements.

Initial Actions

2. In order to ensure that systems were in place by 8 May, officers have developed and published a web-based form to assist people wishing to make complaints and set up a dedicated email address (monitoringofficer@surreycc.gov.uk). This is publicised on the Council's website together with details of the new arrangements. The contact centre and front desks at Council premises open to the public have been provided with details so that they can assist members of the public who wish to complain about a councillor. The Monitoring Officer has written to service managers to update them on the new procedures.

Publicity for New Arrangements

3. The 2008 Regulations¹ require the Standards Committee to publish the address to which written allegations about Members should be sent (There is no facility for the Committee to investigate unwritten allegations but equalities legislation requires the Council to consider what action it should take to assist those people with disabilities or for whom English is not a first language). The Committee is also required to take reasonable steps to ensure that this information is brought to the attention of the public. The Committee will also need to publish its procedures for dealing with any written allegations. As set out, above steps have already been taken to publish details on the Council's website. Other means of publicity might include:

- Advertising in one or more newspapers
- A notice or article in Surrey Matters
- Notices or leaflets in the foyer of County Hall and area offices and/or public libraries

Standards Board Guidance ²is that it is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The Committee is asked to decide what if any further media should be used to publish details of the Council's address and procedures.

Assessments, Reviews and Hearings

4. The 2007 Act³ requires the Standards Committee to establish a sub-committee (the "Assessment Sub-Committee") to undertake the initial assessment and decide whether the complaint shows an apparent failure to comply with the Code of Conduct for Members and, if so, whether that complaint merits investigation, other action or no action. If the Assessment Sub-Committee decides to take no action in respect of an allegation, the complainant will have 30 days within which to request the Authority to review that decision. The Act requires the Standards Committee to set up a second sub-committee (the "Review Sub-Committee") to conduct that review. No member can sit on the Review Sub-Committee in respect of a complaint where they were on the Assessment Sub-Committee dealing with the same complaint.
5. If the matter goes for investigation and the Investigating Officer concludes that there has been a failure to comply with the Code of Conduct for Members, a hearing would then be held. The Standards Board recommends that such hearings should be held before a sub-committee of between three and five members.

¹ The Standards Committee (England) Regulations 2008

² Local Assessment of Complaints ("2008 Guidance")

³ The Local Government and Public Involvement in Health Act 2007

6. Whilst the Act prohibits any member from sitting on an Assessment Sub-Committee and Review Sub-Committee dealing with the same matter (on the basis that a member cannot fairly review his/her own decision) there is no similar statutory prohibition of a member sitting on the Hearings Sub-Committee when that member was previously on either the Assessment Sub-Committee or the Review Sub-Committee in respect of the same matter. In anticipation of these new responsibilities the Council agreed last year to increase to four the number of independent members of the Committee, bringing the overall size of the Committee to ten members. However, as can be seen below, it would be practically difficult to ensure that in the event that a complaint was referred for investigation following a review of an original assessment, all three Sub-Committees comprised different members. It will therefore be necessary to manage carefully any real or apparent risk of bias or predetermination and it is suggested that this, along with other matters is kept under review, so that if necessary the Standards Committee may recommend to the Council that it further increases the size of the Committee.
7. The quorum (minimum actual attendance) for each such Sub-Committee is three members:
 - at least 25% of each sub-committee must be Independent Co-opted Members, one of whom must be present to chair the meeting;
 - at least one elected member of the Council must be present at each meeting.

Legal advice is that Sub-Committees must be appointed by the Standards Committee, this includes appointing named members and this cannot be delegated to the Monitoring Officer, even in consultation with the Chairman. This rules out any ad hoc committee being drawn together to react to a complaint received. In any event an Assessment Sub-Committee must be available at short notice to deal with an allegation. The statutory Guidance requires the Council to consider any allegations received within an average of 20 working days of receipt and the Standards Board for England ("SBE") will require quarterly monitoring reports to assess how successfully the Committee is meeting its targets. Experience to date is that, in the SCC context, about six allegations of member misconduct are made each year so it is advisable that a monthly meeting is diarised, to be held if there is actual business to be conducted. This can be cancelled if there are no complaints to consider that month. To manage the risk of a quorum to being unavailable it is suggested that the Assessment Sub-Committee comprises five members, two of whom are independent co-opted members and one of whom shall be appointed Chairman of the Sub-Committee. This provides some flexibility, since only one independent member and two others need to attend to make a quorum. Proposed terms of reference for the Assessment Sub-Committee are set out in Appendix A to this report.

8. The timetables for dealing with a review of a decision not to pursue a complaint and for finally hearing a complaint are more flexible. A Review must be conducted within three months of a request from the complainant and a hearing must take place within three months of receipt of the investigation report. There is therefore no need to diarise Review Sub-Committee meetings, but there needs to be a facility for these to take place. It is suggested therefore that the Committee appoints a Review Sub-Committee, comprising one Independent Co-opted Member and two additional members, with the proposed terms of reference set out in Appendix B to this report. Members of the Assessment Sub-Committee should not of course be members of the Review Sub-Committee,
9. Dealing with a final hearing of a complaint will require a greater time commitment from the Chairman and members of the Hearings Sub-Committee and the time scale is longer – hearings should take place within three months of receipt of the investigation report. Since there will be a meeting of the main Committee within that time it is proposed that a Sub-Committee be established as and when required to consider a matter at a hearing.
10. At present, with the good complaints history of the Council, these arrangements should prove appropriate and workable. However it is recognised that they will put a strain on Members' diaries, particularly those appointed to the Assessment Sub-Committee and the Committee may wish to review the arrangements after a year of operation.

Notification to the Member

11. The Act requires the Standards Committee to notify the Member of the receipt of a complaint against him or her and to provide a written summary of the allegation. In practice, the first occasion on which the Committee itself could notify the Member will be after the meeting at which it conducts the initial assessment. The Authority ought to acknowledge receipt of the allegation to the person making the allegation and advise them when it is going to be assessed, and there is nothing to prevent the person making the allegation from publicising that fact.

It will not engender confidence in the system if the member concerned were to learn of the complaint from the person making the complaint or from the press. Accordingly, it would be sensible for the Monitoring Officer to notify the Member of receipt of the complaint as soon as possible after receiving it. However the Monitoring Officer is bound by Section 63 of the Local Government Act 2000 (modified by the 2008 Regulations) and can only disclose information to people other than members of the Standards Committee in limited circumstances. One of those circumstances is with the consent of the person to whom the information relates. The best solution will be to routinely ask any complainant for consent to tell the Member that a complaint has been made about him or her. The Committee should however note that if no such consent is forthcoming the Monitoring Officer will be obliged to keep receipt of the complaint confidential, so that the first that the member may learn about it will be the written summary from the Assessment Sub-Committee.

Alternative Resolution of Complaints

12. In some cases the cost and resource implications of an investigation and formal hearing may not be the best way of getting the matter resolved in the interests of the all the parties. The 2008 Regulations enable the Assessment Sub-Committee to propose some other course as an alternative to a formal investigation. Before taking such a decision the Sub-Committee must formally consult the Monitoring Officer. The 2008 Guidance also makes it clear that the Monitoring Officer has discretion to deal with a complaint in a different way to a formal referral to the Assessment Sub-Committee where a complaint refers to a member, but is not necessarily a Code of Conduct issue, or where the complainant indicates that they do not wish to make a formal complaint to the Standards Committee. It would assist the Monitoring Officer to have in place a local protocol and a form of such a protocol is set out in Appendix C.

Initial Assessment Decisions:

13. The Assessment Sub-Committee is required to reach one of the following decisions on a complaint about a member's actions in relation to the Code of Conduct, to:

- refer the allegation to the relevant Monitoring Officer;
- refer the allegation to the Standard Board for England;
- decide that no action should be taken in respect of the allegation

13.1 Refer the allegation to the Monitoring Officer: When the Assessment Sub-Committee considers a new complaint it can decide that it should be referred to the Monitoring Officer for investigation. Where the allegation relates to a person who is no longer a member of this Authority but is a member of another relevant local authority, the Sub-Committee may choose to refer the allegation to the Monitoring Officer of that other authority. In either case it must send a summary of the complaint to the relevant parties covering what the allegation was and what type of referral has been made.

13.2 Referral to the Standards Board for England: Where there are issues which make it difficult for the authority to deal fairly with the case, the Assessment Sub-Committee may wish to refer the matter to the Standards Board for England to be investigated by an ethical standards officer. The SBE has the discretion to investigate the matter, take no action or refer the case back to the local standards committee. A summary of the complaint as in 7.1 above must be sent to the parties

- 13.3 Referral for other action:** The Assessment Sub-Committee may decide that action other than an investigation should be taken and it can refer the matter to the Monitoring Officer to carry this out. Before reaching this conclusion the Assessment Sub-Committee must consult the Monitoring Officer and again the parties must be informed of the outcome of the Sub-Committee's deliberations.

Assessment Criteria

14. The 2008 Guidance requires the Committee to develop criteria against which it will assess new complaints and decide what action, if any to take. These criteria should reflect local circumstances and priorities and be simple clear and open. The Guidance recommends that they are publicly available. They need to be designed to ensure fairness for both the complainant and the member who is subject to the complaint. Assessment criteria can and should be reviewed in the light of experience, but this will need to be done at a time when there is not a complaint under active assessment.

Below are some suggested criteria. The Committee is asked to consider whether to adopt each of these and to recommend any further criteria that it would wish to add. Once agreed these criteria will be published and must be used by the Assessment Sub-Committees in deciding how to address any complaint received.

- 14.1 Information provided by the complainant:** The Assessment Sub-Committee will require sufficient information to decide whether a complaint should be referred for investigation or other action. The Monitoring Officer may assist the Sub-Committee by obtaining information readily available in the limited period between receipt of a complaint and its assessment, such as minutes of meetings, a copy of a member's entry in the register of interest, information from Companies House or the Land Registry. However no detailed investigation can take place prior to a decision by the Assessment Sub-Committee. Therefore if the complainant has not provided enough information to enable the Sub-Committee to properly assess the complaint the complainant will be informed and no further action will be taken unless or until further relevant information is received.
- 14.2 Anonymous Complaints:** The Assessment Sub-Committee will give less weight to anonymous complaints and only consider these further if the complaint includes independently verifiable documentary evidence of the matters to which the complaint relates.
- 14.3 Complaints that have been previously investigated:** The Committee will not investigate a complaint that has been subject to a previous investigation or other action relating to the Code of Conduct or investigation by other regulatory authorities.

- 14.4 Complaints about historic matters:** In deciding whether to refer a complaint for investigation the Assessment Sub-Committee will take into account the period of time that has passed between the incident giving rise to the complaint and receipt of the allegation. Where it decides that the alleged conduct happened so long ago that it would not be in the public interest to pursue the matter, no further action will be taken.
- 14.5 Trivial, malicious or tit for tat complaints:** In deciding whether to refer a complaint for investigation or further action the Assessment Sub-Committee will take into account the seriousness of the alleged breach of the Code. Where it decides that the alleged conduct even if proven to have occurred is insufficiently serious to warrant further action none will be taken. Similarly where a complaint appears to be malicious, politically motivated or a tit for tat complaint the Sub-Committee may decide that no further action should be taken
- 14.6 Multiple Complaints:** Where the Committee receives complaints from a number of different people about the same matter the Assessment Sub-Committee will consider such complaints together at a single meeting, but will make and record a separate decision in relation to each complaint. Multiple or repetitious complaints about the same matter made by a single individual will be treated as one complaint.
- 14.7 Complaints about behaviour in relation to membership of another Authority:** The Standards Committee is unable to take action in relation to a former member of the Council, who is still a member of a different authority or a complaint which relates to behaviour of a current member in relation to his or her membership of another Authority. Where the Committee is unable to take action it will advise the complainant and provide details of the Authority to which it considers the complaint should be addressed. The Committee may pass a complaint to another Authority where the member has left SCC but has no power to do so where the member has current dual membership of SCC and another local authority

Timescale for initial assessment of allegations
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15. As set out above, the 2008 Guidance expects initial assessments to be undertaken and a decision taken on what should happen on a complaint within 20 working days of the receipt of the allegation by the Authority. The Monitoring Officer will be required to report quarterly on performance to the Standards Board for England

Confidentiality

16. As a matter of fairness and natural justice a member should usually be told who has complained about them. Where the complainant asks for their identity to be withheld the Assessment Sub-Committee will need to consider that request alongside the complaint itself. The Sub-Committee may first wish to consider whether the matter can be investigated without making the complainant's identity known. If the answer is yes, the 2008 Guidance suggests the following criteria against which requests for confidentiality should be assessed. The Committee is asked to consider these for adoption, with any further additions or modifications it considers appropriate

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed
- The complainant is an officer who works closely with the member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (Members may wish to consider modifying this criterion to introduce the test of reasonableness applied to the first bullet point)
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such circumstances the standards committee may wish to request medical evidence of the condition.

If the Assessment Sub-Committee decides to refuse a request for confidentiality it may wish to offer the complainant the opportunity to withdraw the complaint, however in certain circumstances the public interest in proceeding with an investigation may outweigh the complainant's wish to keep his or her complaint secret from the member involved. The Sub-Committee will need to look at this and consider it alongside how realistic is the prospect of a proper investigation if the complainant then chooses not to co-operate.

Public information about complaints received

17. Access to Information Provisions

The 2008 Regulations exclude the operation of Schedule 12A to the Local Government Act 1972 from Assessment and Review Sub-Committee meetings. This means that there is no requirement to publish an agenda in advance of the meeting or to publish minutes of the meetings. The 2008 Guidance points out that these Sub-Committees may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. In place of these provisions Regulation 8 requires the Sub-Committee to produce a written summary after the meeting which must include:

- The main points considered
- The conclusions on the complaint
- The reasons for the conclusion

It may give the name of the member who is the subject of the allegation, unless to do so would not be in the public interest or would prejudice any investigation. All summaries must be available for public inspection for six years. The Monitoring Officer will need to put in place an appropriate records management system to address this. It is worth noting that the exemption from Schedule 12A does not apply to Hearings Sub-Committees. For these meetings an agenda will be published and the Committee will meet in public and only go into private session if the Committee passes a resolution to consider the matter in Part 2

18. Member requests for information under the Data Protection Act

Any person is entitled to request access to any personal information which the Authority holds in respect of him/her. Accordingly a member may request to be informed whether the Authority has received a complaint about him/her and may ask to see and correct that information. Section 31 of the Data Protection Act 2000 provides that the Authority would not have to disclose such information where it is held for any relevant function which is designed for protecting members of the public against dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons authorised to carry on any profession or other activity. Accordingly, the Authority would be able to refuse to disclose whether a complaint had been received until the member was notified on the sending out of the Assessment Sub-Committee agenda, or where no notification is made because the disclosure of that information would be likely to prejudice the proper conduct of the investigation.

19. Freedom of Information Act

As FOI requests must be dealt with within 20 days, the Authority may, but is unlikely to need to respond to press and public requests before the Assessment Sub-Committee has met. Any request will need to be considered individually. However, the Authority may refuse to provide information where the information is held for "law enforcement" purposes, which includes the regulation of improper conduct, and where the disclosure would prejudice the effective conduct of public affairs. However, disclosure can only be resisted where the public interest in withholding the information outweighs the public interest in its disclosure. Accordingly, the Authority may have grounds for resisting early disclosure of information relating to complaints received, but this is likely to be contested by persons making such requests.

Review of Initial Assessment

20. Where the Assessment Sub-Committee decides that no action should be taken on a complaint, the 2008 Guidance requires the Authority to advise the complainant of his or her right to ask for a review by writing to the Standards Committee with their reasons for requesting a review. He or she should also be told of the date by which the review request must be received by the committee, that is within 30 days of being notified of the decision.

21. It is not entirely clear whether the function of the Review Sub-Committee is a review (that is considering whether the original decision was flawed) or reconsideration (a completely fresh assessment of the allegation). The 2008 Guidance gives examples of matters appropriate for a review, such as a challenge from the complainant that:

- Not enough emphasis has been given to a particular aspect of the complaint
- There has been a failure to follow any published criteria
- There has been an error in the procedure

This lends weight to the argument that it is a consideration of the reasonableness of the original assessment decision. The Guidance also makes it clear that where the Review Sub-Committee has additional information received after the initial decision was made it should consider carefully whether it is more appropriate for this to be handled as a new complaint. In those circumstances it will need to make a formal decision that the review request will not be granted and the matter will be treated as a new assessment

22. The Guidance recommends that the reasoned decision of the Review Sub-Committee is sent to the complainant and the member within five working days of the decision being made.

Decision whether to conduct a local hearing

23. Where an Assessment Sub-Committee refers a matter for investigation and the Monitoring Officer has completed his or her investigation, the next stage of the process is for the Monitoring Officer to report to the Standards Committee, or a sub-committee, which can:

- accept a finding that there has been no breach of the Code of Conduct or
- send the case for local hearing or
- send it to an SBE Case Tribunal.

This adds another layer of process, requiring a further meeting and it is proposed that this should be dealt with by the next available Assessment Sub-Committee and therefore is reflected in the Terms of Reference set out in Appendix A.

Cost Implications

24. Overall, this change will mean more Sub-Committees, and more meetings. It will require both the Monitoring Officer and her staff and the Committee Manager to undertake a significant amount of additional work in receiving any allegations of misconduct and reporting them to the relevant Sub-Committees. In addition there are the financial implications of advertising the new arrangements. If the Committee chooses to place a public notice advertising the new arrangements this will cost about £200. It is not

recommended that the Council has custom printed complaints leaflets and forms as the print run required would make the cost for the expected small volume of complaints prohibitive. Instead hard copies of the internet pages will be available. The intention is to minimise the costs of the complaints handling system by making use of the Council's existing complaints handling processes but this may prove problematic in view of the confidentiality issues. There is also the requirement to design implement and maintain a database of decisions and outcomes. There are therefore potentially very substantial cost implications, but the actual costs will depend upon the number of complaints of misconduct received and the number investigated. There is not additional Central Government funding being provided as a result of this change.

<u>RECOMMENDATIONS:</u>

The recommendations, contained in the body of the report are set out below. The reason for the recommendations is to ensure that the Council and the Standards Committee have in place appropriate arrangements and procedures to enable the Standards Committee and the Monitoring Officer to fulfil their respective duties under the 2007 Act, and the 2008 Regulations, having regard for the 2008 Guidance.

<u>Recommendations:</u>	Report paragraph
1. The Committee is asked to decide what if any further media should be used to publish details of the Council's address and procedures (paragraph 3 above)	3
2. It is recommended that the Standards Committee establish and appoint a chairman and members of an Assessment Sub-Committee comprising two Independent Co-opted Members (one of whom will be appointed chairman) and three elected members of the Council with the Terms of Reference set out in Appendix A to this report, to meet on a monthly basis	4-10
3. It is recommended that the Standards Committee establish and appoint a chairman and members of a Review Sub-Committee comprising at least one Independent Co-opted Member (as Chairman) and one County Councillor with one additional member, with the terms of reference set out in Appendix B to this report	4-10
4. It is recommended that the Authority should adopt a local protocol as set out in Appendix C to this report setting out the Monitoring Officer's role in handling complaints	12

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| | Item No. 7 |
| 5. The Committee is recommended to approve the assessment criteria set out in paragraph 14 above and to consider whether there are any matters that need to be included as or excluded from its published criteria for the assessment of complaints | 14 |
| 6. The Committee is asked to consider the criteria for maintaining the confidentiality of a complainant set out in paragraph 10 above and to adopt these with any exclusions, additions or modifications it considers appropriate | 16 |
| 7. The Committee tasks the Monitoring Officer with recommending to the Council any changes to the Council's Constitution required to give effect to its new responsibilities. | |

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Appendix A

Terms of Reference of the Assessment Sub-Committee

1. Terms of Reference

1.1. The Standards Committee shall establish and appoint members to an Assessment Sub-Committee to receive allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct.

1.2 The Assessment Sub-Committee can only assess an allegation if:

- i. The complaint is about one or more named members of Surrey County Council and
- ii. The member was in office at the time that the alleged conduct took place and
- iii. The complaint, if proven would be a breach of the Code of Conduct in force at the time of the alleged misconduct

1.3 Upon receipt of a relevant allegation and any accompanying report by the Monitoring Officer the Assessment Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:

- i. Refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation,
- ii. After consulting the Monitoring Officer refer the matter to him/her to take action other than an investigation
- ii. Refer the allegation to the Standards Board for England;
- iii. Decide that no action should be taken in respect of the allegation; or
- iv. Where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision. In accordance with the Regulations

- 1.4. Upon completion of an investigation by the Monitoring Officer, the Assessment Sub-Committee shall be responsible for determining whether:
- i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct,
 - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
 - iii. the matter should be referred to the Adjudication Panel for determination.

and shall state its reasons for that decision.

2. Composition of the Assessment Sub-Committee

The Assessment Sub-Committee shall be chaired by an independent co-opted member of the Standards Committee. It will comprise 5 members, of whom 2 shall be an independent co-opted members (including the Chairman of the Sub-Committee), and 3 elected members of the Authority.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent Co-opted member as Chairman, and at least one elected member of the Council

4. Frequency of Meetings

The Sub-Committee shall agree a programme of monthly meetings, but shall only meet where one or more allegations or Monitoring Officer's reports of investigations have been received and require decision.

Appendix B

Terms of Reference of the Review Sub-Committee

1. Terms of Reference
 - a. The Committee will establish a Review Sub-Committees to review, upon the request of a person who has made an allegation that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of an Assessment Sub-Committee that no action be taken in respect of that allegation.
 - b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
 - iii. Refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation,
 - iv. After consulting the Monitoring Officer refer the matter to him/her to take action other than an investigation
 - ii. Refer the allegation to the Standards Board for England;
 - iii. Decide that no action should be taken in respect of the allegation; or
 - iv. Where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authorityand shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.
 - c. Where information is available to the Review Sub-Committee which was not provided to the Assessment Sub-Committee the Review Sub-Committee may refer the allegation back to the Assessment Sub-Committee in which case it will pass a resolution to take no further action
 - d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition of the Review Sub-Committees

The Review Sub-Committee shall comprise 3 members, of whom 1 shall be an independent co-opted member of the Standards Committee, who shall chair the Sub-Committee and 1 shall be an elected County Councillor. No member involved in the original assessment of a complaint may sit on a Review Sub-Committee reviewing that original assessment.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent Co-opted member as Chairman, and at least one elected member of the Council

4. Frequency of Meetings

A Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of an Assessment Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.

Appendix C Monitoring Officer Protocol

1 Receipt of Allegations

- 1.1 The Monitoring Officer shall set up arrangements within the Authority to secure that any allegation made in writing that a member of the Authority has or may have failed to comply with the Authority's Code of Conduct is referred to him/her immediately upon receipt by the Authority.
- 1.2 The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.
- 1.3 The Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his/her opinion that would be in the public interest or until such time as an Assessment or Review Sub-Committee has reached a decision on a request to keep the identity of the complainant confidential (such decision of course being binding on all members of the Standards Committee and officers of the Council)

Notification of Receipt of Allegations

- 2.1 The Monitoring Officer shall determine whether an allegation about a member appears to be a substantive allegation of misconduct. Where it appears not to be, he/she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority.
- 2.2 Where the Monitoring Officer receives a complaint which is not given in writing or the complainant makes it clear that he or she does not wish the matter to be referred to the Standards Committee the Monitoring Officer will consider the options for informal resolution to satisfy the complainant.

Following receipt of the allegation, and where the allegation does appear to be a formal complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:

- 2.3.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;
- 2.3.2 collect such information as is readily available and would assist the Sub-Committee in its function of assessing the allegation;

- 2.3.3 place a report, including a copy of the allegation, such readily available information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next meeting of the Assessment Sub-Committee.

Review of Decisions not to Investigate

- 3.1 Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and that he or she may, within 30 days of receipt of such notification, request that a Review Sub-Committee review that decision.
- 3.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Sub-Committee in respect of the matter, the summary of the Assessment Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

Local Investigation

- 4.1 It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.
- 4.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Authority, a senior officer of another authority or an appropriately experienced consultant.