

<i>COMMITTEE</i>	STANDARDS COMMITTEE
<i>DATE</i>	TUESDAY, 16 MARCH 2004
<i>TITLE OF REPORT</i>	PROTOCOL FOR MUTUAL ASSISTANCE BY KENT MONITORING OFFICERS
<i>RESPONSIBLE OFFICER</i>	Mark Bowen, assistant director, legal and contract services

1 PURPOSE OF THE REPORT

- 1.1 To consider a proposed protocol for co-operation between monitoring officers where they are unable to act within their own authorities due to a conflict of interest.

2 RECOMMENDATION

- 2.1 That the approved protocol be agreed.
- 2.2 To recommend to Cabinet that Medway Council's Monitoring Officer and his staff are placed at the disposal of the authorities identified in the protocol as and when required.

3 DECISION ISSUE

- 3.1 The Constitution requires the Standards Committee to advise on good practice. The Constitution assigns to Cabinet the making of agreements with other local authorities for placing of staff at the disposal of those other authorities.

4 BACKGROUND

- 4.1 From Autumn 2003 it has been possible for Ethical Standards Officers to refer complaints which they have investigated to Standards Committees for local determination. In addition, the consultation process for allowing direct investigation by Standards Committees is due to close in May of this year.
- 4.2 This will complete the framework for locally determining complaints against members.
- 4.3 The Monitoring Officer has a key role in the process including:
- expressing a view or advising a member on a matter relating to a complaint which is subject to investigation

- leading in investigating a complaint or bringing a complaint before the committee
 - advising the Standards Committee
- 4.4 These roles cannot necessarily be all undertaken by the Monitoring Officer or by a deputy within the authority due to issues around conflict of interest and issues around natural justice.
- 4.5 One option would be where a conflict of interest prevents a matter being dealt with by the Monitoring Officer or his staff that consultants or external lawyers be appointed to take one or more of the roles identified above. Depending on the number of complaints Medway's Standards Committee is required to determine this could prove costly.
- 4.6 This has been an issue which has been troubling monitoring officers across Kent and the protocol at Appendix 1 has been agreed to allow for a cost-effective and expeditious system whereby monitoring officers offer assistance to each other where there is a conflict of interest or other substantial reasons where a monitoring officer cannot act within their authority.
- 4.7 Medway is grouped with Kent County Council and the London Borough of Bexley in the protocol but it would also be able to seek assistance from the East Kent authorities. If assistance is sought and granted then that creates a reciprocal obligation to return that assistance if requested. The agreement creates a potential for recharge but this would be based on internal charging rates which are appreciably lower than the rates Medway could expect to pay if it engaged consultants or external lawyers to undertake this work.

5 FINANCIAL AND LEGAL IMPLICATIONS

- 5.1 The financial implications will be dependent upon the number of complaints that Medway Standards Committee is required to determine and whether circumstances arise which mean that Medway's Monitoring Officer cannot act. However, the reciprocal nature of the obligations contained within the protocol should assist in the cost of implementing the protocol being cost neutral. The legal implications are set out in the report.