

STANDARDS COMMITTEE

8TH OCTOBER 2008

ASSESSMENT CRITERIA

Report from: Deborah Upton, Monitoring Officer

Summary

Members are requested to consider and approve the proposed assessment criteria (attached as Appendix 1 to this Report) against which the Standards Committee Referrals Sub-Committee will assess new complaints and decide what action, if any, to take.

1. Purpose of Report

- 1.1 The purpose of the report is to assist the Standards Assessment Sub-Committee in drawing up suitable local assessment criteria which will be used by the Referrals Sub-Committee, when assessing all new complaints.

2. Background

- 2.1 The Local Government and Public Involvement in Health Act 2007 gives Standards Committees the role of undertaking the initial assessment of misconduct allegations in place of the Standards Board for England.
- 2.2 The Standards Committee (England) Regulations 2008 (The Regulations) came into force on 8 May 2008 and set out in detail the way in which the local assessment function is to be discharged by Standards Committees.
- 2.3 In complying with its obligations under the Regulations, Standards Committees are also required to take account of Guidance published by the Standards Board.
- 2.4 The Standards Board Guidance in respect of the Local Assessment of Complaints provides that the Referrals Sub-Committee will need to

develop criteria against which it assesses new complaints and decides what action, if any to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member. Assessing all new complaints by established criteria will also protect committee members from accusations of bias. Criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

- 2.5 In drawing up assessment criteria, Standards Committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and will be dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and members time. This is an important consideration where the matter is relatively minor. Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.
- 2.6 The proposed criteria are annexed to this report at Appendix 1. The draft criteria have been developed based on the Guidance issued by the Standards Board.

3. REASONS FOR THE DECISION

- 3.1 Assessing against established criteria will help ensure fairness and reduce the risk of accusations of bias.

4. RECOMMENDATION

That the Standards Committee consider and approve the assessment criteria set out in Appendix One of this report.

APPENDIX 1

ASSESSMENT CRITERIA

BEFORE THE ASSESSMENT OF THE COMPLAINT

The Referral Sub-Committee must be satisfied that:

1. The complaint is against one or more named members of Medway Council or a parish council in Medway;
2. The named member was in office at the time of the alleged conduct and that the Code of Conduct was in force at the time;
3. The complaint (if proven) would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

Only if the complaint satisfies all three points above can the Referral Sub-Committee consider the complaint. If the complaint does not satisfy the above criteria the complainant must be notified that no further action will be taken.

ASSESSMENT OF THE COMPLAINT

1. The Complainant must have submitted enough information to satisfy the Referral Sub-Committee that the complaint should be referred for investigation or other action taken.
2. Where the member complained of is no longer a member of Medway Council or a relevant parish council, but is a member of another authority, the Sub-Committee may refer the complaint to the new authority if it wishes.
3. The complaint will not be investigated or any other action taken where the conduct complained of has already been investigated or had other action taken in relation to it.
4. The complaint will not be investigated or have other action taken in relation to it where the complaint has been investigated by another regulatory authority.
5. If the complaint is about something that happened more than one year ago the complaint will not be investigated or further action taken if the Committee feel there is little benefit from taking action now.
6. The Committee will not order an investigation or further action to be taken if the complaint is trivial.
7. The Committee will not order an investigation or further action to be taken if it appears to them that the complaint is malicious, politically motivated or tit-for-tat.