

Standards Committee – 6th October 2014

Process for Review of Complaints

Summary of report:

The report is to provide information to Elected Members in respect of how the Monitoring Officer carries out reviews of complaints under the Arrangements for Dealing with Complaints about elected members under the council code of conduct as approved at council on the 25th June 2012.

Background papers:

None

Recommendation:

To note the content of the report

1.0 Background

1.1 The Arrangements for Dealing with Complaints against Elected Members was approved by Walsall Council at an extraordinary meeting of the Council on 25 June 2012.

1.2 Under the arrangements for dealing with complaints the monitoring officer has been given delegated authority to every complaint brought against elected members under the Council code of conduct. The monitoring officer will review every complaint, and after consultation with the councils Independent Person, will take a decision as to whether or not the complaint merits formal investigation. It is envisaged under the arrangements that this will normally take 10 working days to determine following receipt of a complaint.

1.3 The review process is set out as follows:

- The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

- Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.
- In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- If your complaint identifies criminal conduct will breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory body.
- The monitoring officer will acknowledge receipt of complaint within five working days, and notify the relevant Group Leader, and Elected Member of the receipt of the complaint, and details of the said complaint.
- The Monitoring Officer will then decide whether or not further detail of complaint is required. If further information and detail is required the timescale for completion of initial assessment/review may be extended. Both parties to the complaint will be notified this writing.
- The Monitoring Officer will carry out an initial assessment/review of complaints and consult with the Independent Person (IP) within 10 working days.
- There are three outcomes possible with the initial assessment/review which are: that there is no case to answer, informal resolution of complaints has been agreed, the matter is referred for formal investigation.

1.4 There is no right of appeal against the decision that the matter should not be referred for formal investigation and to date no one has questioned this fact. This may in part be due to the fact that full reasons are always given explaining the decision reached. The only right challenge therefore to this type decision may be either by judicial review or complaint to the Local Government Ombudsman. The Monitoring Officer has reviewed a number of other local authorities procedures for investigating complaints and some have an appeal mechanism for this decision, however the majority reviewed do not. Therefore it is probably best to keep this issue under review for a further 12 months.

1.5 Some of the local authorities who have appeal mechanisms either have a right of appeal to the Chair of the Standards Committee, following consultation with the other Independent Member, or to the Chief Executive, in consultation with the Independent Member, or even to a hearing of the Standards Committee itself. As one of the guiding principles of the new regime was to deal with complaints more effectively particularly less serious complaints, this extra step in the procedure may be unnecessary as there has not been an issue with the procedure so far. This

would add more expense and complexity to the proceedings. However Standards Committee may wish to consider adding a Complaints Assessment criteria as set out in Appendix 1 to the Arrangements for Dealing with Standards complaints to provide further detail as to the relevant factors that will be considered in whether or not a matter should be referred for investigation.

2.0 Resource and legal considerations:

2.1 None directly related to this report. The complaints procedure is being managed within Legal and Democratic Services from existing resources. If there is a considerable increase in complaints or the council receives a very serious and complex complaint, consideration may need to be given to outsourcing some work if the demand cannot be met from existing resources.

3.0 Financial Implications

3.1 There can be significant costs incurred in investigations, in one local authority the costs of investigation in twelve months amounted to £65,000.00.

4.0 Performance and Risk Management issues:

4.1 Performance and risk management are a feature of all council functions. It is important that council policies and procedures are reviewed and updated on a regular basis. If the council fails to do this there is an increased risk that the council will be subject to legal challenge or litigation.

4.2 In terms of performance it is important that both Elected Members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the council delivers services.

5.0 Equality Implications:

5.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes that elected members and officers observe equalities. It is important that complaints are dealt with in a fair and transparent manner.

6.0 Consultation:

6.1 There is no requirement to consult on this report.

Author:

Tony Cox
Head of Legal and Democratic Services
☎ 01922 654822
✉ coxt@walsall.gov.uk