

STANDARDS COMMITTEE – 8TH MAY 2006

SUBJECT: PROCEDURE FOR DEALING WITH ALLEGATIONS OF A BREACH OF THE CODE OF CONDUCT

REPORT BY: MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To approve a procedure for dealing with allegations that a member has failed to comply with the provisions of a code of conduct.

2. LINKS TO STRATEGY

- 2.1 The authority is under a duty to promote and enforce standards of conduct and ethical behaviour in accordance with statute and approving this document is in line with that duty.

3. THE REPORT

- 3.1 Allegations that an elected member has failed to comply with that member's code of conduct will first of all go to the Public Services Ombudsman ("the Ombudsman") for consideration and if he thinks appropriate for further action. Monitoring Officers across Wales try to resolve complaints on an informal basis in the more straightforward of cases which could be dealt with by, perhaps, an apology. This is entirely at the choice of the complainant and the complainant does not lose the right to make a formal allegation to the Ombudsman in the event that the complaint is dealt with informally but cannot be resolved informally.
- 3.2 If the Ombudsman decides that an allegation should be investigated he has the option of investigating it himself, or sending it to the relevant authority's Monitoring Officer for investigation. If he investigates it himself then his report at the end of that investigation is sent either to the Standards Committee or (in the more serious cases) to the Adjudication Panel for Wales.
- 3.3 The Standards Committee will therefore have an involvement:-
- (a) where the Ombudsman has investigated and sent his report ; or
 - (b) the Monitoring Officer has investigated and presents a report.
- 3.4 This committee has not as yet adopted a procedure for dealing with these complaints. This is now required and a suggested procedure is attached as an appendix to this report. The Welsh Assembly Government has made regulations which specify in part the rules that the Standards Committee must follow. Beyond that the procedure is up to the Standards Committee. The attached report covers both of these elements.
- 3.5 In dealing with the Ombudsman's or Monitoring Officer's report the Standards Committee has to deal with this in two stages:-

1st stage

After receiving the report and any recommendations from the Monitoring Officer the Standards Committee must determine either:-

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned and must notify any person who is the subject of the investigation, any person who made the allegation and the Public Services Ombudsman; or
- (b) that any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed to comply with the relevant authority's code of conduct.

2nd stage

(This will only happen if at the 1st stage the committee has made the decision under (b) above).

After considering any representations a Standards Committee must determine:-

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;
- (b) that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed to comply with the relevant authority's code of conduct but that no action needs to be taken in respect of that failure;
- (c) that a member or co-opted member (or former member or co-opted member) of the relevant authority has failed to comply with the authority's code of conduct and should be censured; or
- (d) that a member or co-opted member of a relevant authority has failed to comply with the authority's code of conduct and should be suspended or partially suspended from being a member or co-opted member of that authority for a period not exceeding six months.

- 3.6 There is a right of appeal from any decision made by the Standards Committee under (b), (c) or (d) above at the 2nd stage.
- 3.7 The attached draft procedure incorporates these statutory provisions, and adds practical procedural elements into the process.

4. FINANCIAL IMPLICATIONS

- 4.1 None.

5. PERSONNEL IMPLICATIONS

- 5.1 None.

6. CONSULTATIONS

- 6.1 There are no consultation responses that have not been incorporated into the recommendations of this report.

7. RECOMMENDATIONS

- 7.1 That members note the contents of this report and approve the procedure document attached at Appendix A.

8. REASONS FOR THE RECOMMENDATIONS

- 8.1 In order to give practical effect to statutory provisions and provide a clear procedural document for use by the Standards Committee.

9. STATUTORY POWER

- 9.1 Local Government Act 2000, Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001. This is a Council function which has been delegated to this committee.

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Consultees: Chairman, Standards Committee, Cabinet member for Policy and Resources,
Chief Executive

Background Papers:
None other than published documents.

Appendices:
Appendix 1 Draft procedure for dealing with allegations of a breach of the code of conduct