

WILTSHIRE COUNCIL

STANDARDS COMMITTEE

10 MARCH 2010

TIMESCALES FOR LOCAL INVESTIGATION AND DETERMINATION

Purpose of Report

1. To advise the Committee about proposals to introduce target timescales for the completing the local investigation and determination of complaints brought under the Code of Conduct for Members.

Background

2. Prior to Wiltshire County Council becoming a unitary authority in April 2009 its Standards Committee did not receive any complaint about members of Wiltshire County Council that resulted in a local assessment, investigation, or determination.
3. From 1st April 2009 the new Wiltshire Council assumed responsibility from the former district councils of Wiltshire for the local assessment and determination of complaints relating to members of town and parish councils in the unitary authority's area. At the same time, the number of members of Wiltshire Council increased from 49 in Wiltshire County Council to 98 members in the new authority.
4. These new responsibilities brought with them a significant increase in the workload of the Standards Committee and of the newly established Governance Service, which was created in part to promote and support the work of the Standards Committee. In order to enable local investigations to be conducted in-house, two ethical governance officers were appointed, but they did not take up their posts until the late summer of 2009. These were new roles and the officers involved had no prior experience of investigations.
5. As the Standards Committee is aware from earlier reports, local assessments by the Committee from April 2009 resulted in the Monitoring Officer being required to conduct a significant number of investigations. A far higher proportion of complaints were referred for investigation than the national average.
6. This has inevitably resulted in investigations taking a relatively long time to complete. However, most of the cases referred for investigation in the early days of the new authority are now reaching final report/determination stage, and the Standards Committee has reviewed referrals following assessment. The number of cases being referred for investigation following that review has decreased.
7. The Governance Service officers have now developed, implemented and refined the administrative processes that underlie the progression of a complaint from receipt to completion, and the number of new referrals for investigation appears to have stabilised. It therefore seems appropriate at this stage to consider setting targets for the completion of investigations and determination hearings.

Main considerations for the Committee

8. There are no statutory timescales for the completion of an investigation. However, Standards for England has issued guidance (page 11 of their Conducting Investigations guidance) which states that: “The Standards Board would recommend that most investigations are carried out, and a report on the investigation completed, within six months of the original complaint being assessed.”
9. At present the investigations are taking longer than this on average, but that is largely attributable to the unavoidable delays in appointing to the Governance Service, “teething problems” as newly-appointed officers developed and became familiar with processes, and with the high workload generated by assessments. It is now realistic to set a 6 month target from referral for investigation to final report stage, based on Standards for England’s guidance.
10. The Standards Committee (England) Regulations 2008 provide that a standards committee must ensure that a determination hearing is held within 3 months from the date on which the monitoring officer’s investigation report is completed, or as soon as reasonably practicable thereafter [regulation 18(1)(b) and (d)]. The Council’s Procedure for Determination of Referred Complaints by the Standards Committee, (copy attached at Appendix 1 for ease of reference) provides for a time limit of 3 months.
11. While this might seem generous at first glance, it is necessary to take into account the number of steps which have to be completed within this part of the process, the timescales for which are set either by statute or statutory guidance from Standards for England.
12. Appendix 2 contains a flow-chart showing the key stages in the local assessment and determination process together with the relevant timescale for each stage. In straightforward cases it may be possible to shorten these times with the agreement of the parties. Delays may, however, arise as a result of various factors, including challenges over process, illness or lack of co-operation of the subject member or problems regarding availability of the parties, witnesses or sub-committee members.
13. On this basis the time-scale of 3 months from the Monitoring Officer’s final report to a determination seems realistic.

Proposals

14. That the Standards Committee requires the Monitoring Officer to set a target time of 6 months from the Assessment Committee’s referral of a complaint for investigation to the completion of the investigation and issuing of a final report.
15. That the Standards Committee requires the Monitoring Officer to set a target time of 3 months from the issuing of his final report to the conclusion of a Determination Sub-Committee hearing.
16. That the Monitoring Officer brings reports to each Standards Committee setting out the progress of each case (in anonymised form using the alpha-numeric identifiers already in use by the Governance Service to identify cases) against these two targets, using a “traffic light” system. Cases that are on target will be shown as green, those about which the Monitoring Officer has concerns will be shown as

amber, and those that have exceeded the target will be shown as red. Red and amber cases should be accompanied with a brief explanation of their amber or red status.

17. That the report should show, where applicable, the alpha-numeric identifier for each complaint, the date it was received by the Monitoring Officer, the date it was considered by the Assessment Sub-Committee, the date it was referred for investigation (which will usually be the same date unless the Sub-Committee adjourned for further information), the date the final report was issued, the date of the Consideration Sub-Committee meeting, and the date of the Determination Sub-Committee hearing.

Training and Communications Issues Arising

18. There are no training or communications issues arising from the proposals made in this report that would require the formation of a task and finish group of the Standards Committee.

Risks

19. There are no risks associated with the proposals made in this report

Financial Implications

20. None arising from this report

Legal Implications

21. The Standards Committee is required to work within the framework and timescales prescribed by statute and guidance.

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The following unpublished documents have been relied on in the preparation of this Report: None

Appendices

Appendix 1 - The Council's Procedure for Determination of Referred Complaints by the Standards Committee

Appendix 2 – Flow Chart