

 <b>Standards Committee – 10 February 2010</b>		<b>Agenda Item No.</b>
<b>Title</b>	Local determination of complaints – appointment of independent investigator	
<b>For further information about this report please contact</b>	Robert Inman	
<b>Service Area</b>	Members' Services	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>	None	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Relevant Director	-	
Chief Executive	-	
CMT	-	
Section 151 Officer	-	
Finance	-	
Portfolio Holder(s)	-	
<b>Consultation Undertaken</b>		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **SUMMARY**

- 1.1 The report outlines the reasons and protocol for appointing independent, external investigators with regard to complaints made about the conduct of councillors.

## 2. **RECOMMENDATION**

- 2.1 That the protocol set out in the report be approved.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 Complaints referred to the Monitoring Officer for local investigation must be handled impartially and in a way that gives both the member who is the subject of the complaint and the complainant confidence in the outcome.

## 4. **ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None

## 5. **BUDGETARY FRAMEWORK**

- 5.1 There will be a cost arising from the appointment of an independent investigator but the Council has agreed that finances of up to £15,000 per annum should be made available to the Monitoring Officer in connection with the local determination of complaints against members.

## 6. **POLICY FRAMEWORK**

- 6.1 None.

## 7. **BACKGROUND**

- 7.1 Guidance from Standards for England indicates that the Monitoring Officer should normally advise the Standards Committee when hearing a complaint, and therefore they will not be able to conduct an investigation personally. Ordinarily, as a result, the Monitoring Officer will delegate the investigation of complaints to their nominated representative, as set out below.

- 7.2 There may be occasions when the Monitoring Officer will investigate the complaint themselves. In deciding whether to delegate an investigation the Monitoring Officer will consider:

- the guidance from Standards for England referred to above;
- whether they have an interest in the complaint;
- the likely complexity of the investigation and seriousness of the complaint;
- the availability of a person suitable to conduct the investigation and to advise the Standards Committee; and
- any other circumstances of the case which appear to be relevant.

- 7.3 The person(s) appointed to carry out a local investigation must:

- have had no personal or professional interest in the complaint;

- not have advised the Councillor(s) under investigation in relation to the complaint or the subject matter of the complaint;
- not be a potential witness to the complaint;
- not be involved in advising the Standards Committee in considering and determining the complaint;
- have the skills, experience and time necessary to give the complaint thorough investigation; and
- have the appropriate skills, i.e. presentational and advocacy in reporting to the Standards Committee.

7.4 The Monitoring Officer will take the above factors into account when appointing an Investigator.

7.5 As an alternative to delegating the investigation to another officer, the Monitoring Officer may also:

- appoint someone from outside the Council such as a lawyer or another Monitoring Officer; or
- appoint someone they consider to be suitably qualified to conduct an investigation.

7.6 The Monitoring Officer will notify in writing the person to whom the investigation has been delegated and will also, where a complaint has been referred by an Ethical Standards Officer, notify the Ethical Standards Officer.

7.7 The person appointed as Investigator will conduct the investigation in accordance with the following requirements:

The Investigator will conduct the investigation in accordance with:

- any directions from the Ethical Standards Officer, where the complaint has been referred by that Ethical Standards Officer;
- the provisions of The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004;
- guidance issued by Standards for England on the investigation of complaints;
- obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other legislation; and
- the need to maintain confidentiality.