

Committee: STANDARDS

Agenda Item

Date: 25 January 2010

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Title: VETTING OF COMPLAINTS

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Item for decision

Summary

1. This report is to inform members of an approach which I adopted in December 2009 with regard to a complaint regarding the conduct of a member of this council.

Recommendations

2. That members endorse the approach taken and approve its use in future similar situations.

Background Papers

3. None.

Impact

- 4.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Finance	None.
Health and Safety	None.
Human Rights	None.
Legal implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

5. In December 2009 I received a complaint regarding a member of this authority.
6. The complainant alleged that the member concerned had failed to acknowledge or reply to an email sent to him by the complainant.
7. Where there is an allegation of a breach of the Code of Conduct the Monitoring Officer has no discretion as to whether or not the case should be investigated. The obligation is to refer the matter to a sub committee of the Standards Committee which will take that decision.
8. The complainant did not specifically allege a breach of the Code. However, the communication which it is alleged the councillor failed to respond to was addressed to him not as a member of Uttlesford District Council but as a member of another relevant authority. That authority has its own Code of Conduct.
9. The Code of Conduct only applies to members of this authority when they are acting in an official capacity, that is to say they are carrying out the business of this authority or are acting, purporting to act or give the impression of acting on behalf of this authority.
10. The subject matter of the email which it is alleged the member failed to respond to concerned the functions of the other relevant authority. The matters contained of were wholly outwith the remit of the district council. A very lengthy string of emails in support of the complaint was sent to me. There is no evidence to suggest that the member concerned had at any time communicated with the complainant. There was certainly nothing to suggest that the councillor was acting for, purporting to act or giving the impression that he was acting on behalf of this authority.
11. In the circumstances, rather than immediately refer the complaint to a sub committee for consideration I wrote to the complainant advising him of the above and suggesting that the complaint ought to more properly be addressed to the Monitoring Officer of the other relevant authority. I have invited him to withdraw his complaint to this authority and indicated that I will only take the matter before a Standards sub committee if he confirms to me that he does not wish to withdraw his complaint.
12. At the time of the preparation of this report I have heard nothing from the complainant further. However I take the view that in circumstances where a matter is quite obviously outwith the remit of the Standards Committee, if a complainant can be persuaded to withdraw in the light of advice given this saves committee members time in considering papers and attending the meeting and also saves officer time in preparing a report for consideration by the committee.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
<p>A disgruntled complainant complains to the Standards Board for England, the local authority ombudsman or seeks judicial review of my decision not to immediately refer the matter to a Standards sub committee.</p>	<p>1, this situation will arise in rare cases only. My response to the complaint will be couched in terms of advice and will not be a rejection of the complaint. My response will also leave it open to the complainant to require the matter to be referred to a sub committee for determination as to whether or not the matter should be investigated.</p>	<p>2, if the complaint is made, proceedings are threatened or proceedings actually commenced, some officer time would be required to deal with this. However, there is no threat of financial loss to this council in the event of proceedings being commenced as if proceedings were commenced without adopting the pre-action protocol the claimant would not succeed in recovering the costs. If the claimant did adopt the pre-action protocol the matter would forthwith be referred to a Standards sub committee.</p>	<p>Where appropriate advice has been given and the claimant does not wish to withdraw the complaint it is referred to the Standards sub committee.</p>

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.