

ARUN DISTRICT COUNCIL

REPORT TO STANDARDS COMMITTEE ON 31 JANUARY 2019

SUBJECT: Review of the Local Assessment Procedure

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DATE: 11 January 2019
EXTN: 01903 737610

EXECUTIVE SUMMARY:

A revised Local Assessment Procedure was adopted by the Council on 8 November 2017 and it was agreed that a review would be undertaken following a year of operation. This report therefore considers how the Procedure has worked in practice, proposes some minor amendments for clarity, and seeks the views of the Committee on any other changes to be put forward.

RECOMMENDATIONS:

The Committee is requested to recommend to Full Council that:

- (1) The Local Assessment Procedure be amended to reflect the changes shown in Appendix A to the report;
- (2) A copy of the amended Local Assessment Procedure be sent to all Town and Parish Councils; and
- (3) A review of the Procedure be undertaken following a further two years of operation, or sooner if required, and reported back to the Standards Committee.

1.0 BACKGROUND

1.1 A revised Local Assessment Procedure was considered by the Committee at its meeting on 19 October 2017 and was subsequently adopted by the Council on 8 November 2017. A further revision was agreed by the Council on 7 March 2018 to include a Police Protocol so any complaints about criminal matters could be referred directly to Sussex Police. The Procedure applies to all Arun District Councillors and Town/Parish Councillors within the Arun District.

1.2 As requested by the Committee, it was agreed that the Procedure would be reviewed after a year of operation.

2.0 PROPOSALS

2.1 The Procedure has worked well. It has met the aims that the Committee had in introducing a two stage review process, namely to:

- create a transparent and simple to follow document that would guide complainants through the process at the outset;
- highlight to any councillor who is the subject of a complaint what they should expect to see happen; and
- give clearer timescales of when to expect responses, thereby speeding up the time taken to investigate and resolve a complaint.

2.2 Feedback has been sought from those parties involved in complaints that have gone to Stage 2 of the Procedure, involving an Assessment Panel, and this has been positive.

2.3 Taking into account comments made about the Procedure in practice, there are six sections where change is being proposed. These changes are highlighted in the Procedure at Appendix A and the reasons are set out below:

2.4 **Paragraph 4**

Three additions are being proposed:

- (i) Whilst the flow chart at Appendix 3 confirms that this stage will be completed within 28 working days, it is suggested that an additional paragraph is added to confirm this timescale for clarity. This new paragraph (4.2) also confirms the timescale for acknowledging any complaint received.
- (ii) In practice, the Monitoring Officer has been consulting with an Independent Person before using her discretion not to proceed with a complaint under one of the subparagraphs in paragraph 4.2. This has been so some independence can be seen to all parties from any decision taken. It is therefore proposed that this practice is formalised.
- (iii) This stage has no right of review and for clarity it is suggested that an additional paragraph is added to confirm this and that the Monitoring Officer's decision will be reported to the Standards Committee for information.

2.5 **Paragraph 5**

Clarity is being proposed in:

- (i) A new paragraph 5.5 to confirm that the investigation will be completed within 28 working days (as explained in Appendix 3), unless the Monitoring Officer advises within that timeframe that more time is needed by the Investigating Officer to conduct their review.
- (ii) This stage also has no right of review and for clarity it is suggested that an additional paragraph is added to confirm this and that the Monitoring Officer's decision will be reported to the Standards Committee for information.

2.6 **Paragraph 6**

To reflect the practice introduced, it is being proposed that:

- (i) The third, fourth and final bullet points in paragraph 6.6 are amended to state that the report will be issued when the decision notice is published as well as in a report to the Standards Committee, so Members and the relevant Town/Parish Council are made aware as soon as the final decision notice is issued to all parties.

2.7 **Paragraph 8**

To reflect the practice introduced, it is being proposed that:

- (i) An additional paragraph 8.6 is added to confirm that if no review is requested by either the Complainant or Subject Member, both will be advised in writing that the decision has been confirmed and how the decision will be published.

2.8 Paragraph 9

Clarity is being proposed in:

- (i) Paragraph 9.1 to confirm that the Chairman of the Assessment Panel will not always be the Chairman of the Standards Committee, except when the Chairman is in attendance, and that the decision notice will initially be sent to the Complainant and Subject Member only for review.
- (ii) Paragraph 9.2 to confirm that the decision notice will be published once the review period has passed and clarify the publication arrangements.

2.9 Appendix 3 – Procedure Flowchart

It is proposed that a further timescale is introduced for those complaints that are dealt with under a Stage 1 investigation. As currently, the initial investigation is to be completed within 28 working days. However, as confirmed in paragraph 5.5, there is then a 14 day period for consultation with both the Complainant and Subject Member before the Investigation Officer's report is presented to the Independent Person for review. For clarification, it is suggested that the flowchart confirms this and that the Monitoring Officer may request an extension of time if required. This extension is to allow for those few occasions where the complaint is complex or the investigation requires interviews with multiple witnesses.

2.10 Finally, there are three issues that the Committee's views are sought on:

1. Would Members of the Standards Committee wish to be circulated the decision letter issued by the Monitoring Officer for complaints that do not proceed to further investigation or for these to continue to only be referenced in the monitoring report presented to each meeting? *The Monitoring Officer and Chairman's view is that the former approach would help the Committee to be aware of any complaint dealt with in this way as soon as it has been resolved in case any question is raised with them prior to their next meeting and provide them with the full details.*
2. If the complaint does not go any further than Stage One (as paragraph 5.8 confirms), would Members wish for the Investigating Officer's report to be published to the Council's website and presented to the next Standards Committee for information or for these to continue to only be referenced in the monitoring report presented to each meeting? *The Monitoring Officer, Chairman and Independent Persons are all of the view that for transparency reasons the decision notice should be published as otherwise the Complainant and Subject Member need to be asked to keep this confidential.*
3. Should the Complainant's name be published in the decision notice as the Procedure is silent on this? *Paragraph 2.4 of the Procedure does confirm that the Subject Member will usually be told who has complained about them. However, it is silent on whether the Complainant's name will be published in the decision notice. The Monitoring Officer has not been publishing this in the absence of a clear direction. The Monitoring Officer, Chairman and Independent Persons are all of the view that the Complainant's name should be included in the decision notice in the interests of fairness to all parties, unless they have been granted anonymity.*

2.11 Members views are welcomed on these proposals and any other issues that they wish to raise.

3.0 OPTIONS:

1. To support the amendments to the Local Assessment Procedure for recommendation to Full Council
2. To not support the amendments to the Procedure
3. To propose alternative amendments to the Procedure

4.0 CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify) <ul style="list-style-type: none"> • Chairman of the Committee • Brian Green and John Thompson, Independent Persons 	✓	
5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)	YES	NO
Financial		✓
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6.0 IMPLICATIONS:

Whilst the Local Assessment Procedure works well in its current format, the amendments proposed aim to clarify and increase transparency of the process for dealing with complaints made against councillors.

7.0 REASON FOR THE DECISION:

To reflect the decision of the Council that the Local Assessment Procedure be reviewed after a year of operation.

8.0 BACKGROUND PAPERS:

Localism Act 2011, section 28

<http://www.legislation.gov.uk/ukpga/2011/20/section/28/enacted>

Report and Minutes to Standards Committee

<https://www.arun.gov.uk/standards-committee>

Minutes of Full Council

<https://www.arun.gov.uk/full-council>