

## **ESSENTIAL REFERENCE PAPER 'D5'**

### Initial Assessments of Standards Complaints Monitoring Officer Protocol

#### **Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegations that a Member of the Authority has failed to comply with the Code of Conduct**

##### **1. Receipt of Allegations**

The Monitoring Officer shall set up arrangements within the Authority to secure that any allegation made in writing that a Member has or may have failed to comply with the Authority's Code of Conduct is referred to him/her immediately on receipt by the Authority.

The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.

Complaints shall only be entertained where they are signed by the complainant, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his/her opinion that would be in the public interest.

##### **2. Notification of Receipt of Allegations**

All relevant allegations must be assessed by the Assessment Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant Member to observe the Code of Conduct other than by reporting it to the Assessment Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he/she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority.

Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant Member, the Monitoring Officer will promptly and in any case in advance of the relevant meeting:

- Acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;

- Notify the Member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation and state that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Assessment Sub-Committee, or in his/her absence, the Chairman of the Standards Committee and may decide that no such advance notification will be given;
- Collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;
- Seek local resolution of the matter where practicable in accordance with paragraph 3 below;
- Place a report, including a copy of the allegation and such readily available information on the agenda for the next convenient meeting of the Assessment Sub-Committee.

### **3. Local Resolution**

Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee but can avoid the necessity for a formal local investigation.

Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she shall approach the Member against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the Member concerned, the Monitoring Officer may approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Assessment Sub-Committee as required and at the same time report the response of the Member concerned and of the complainant. The idea is that, where the Member has acknowledged that his/her conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Assessment Sub-Committee might take that into account when considering whether the matter merits investigation.

### **4. Review of Decisions to Investigate**

Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision and the complainant may then within 30 days of

receipt of such notification request that the Review Sub-Committee review the decision.

Whilst the review shall normally be a review of the reasonableness of the original decision rather than reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

## **5. Local Investigation**

It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.

It will be for the Monitoring Officer, where appropriate after consulting with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Authority, a senior officer of another Authority or an appropriate experienced consultant.