

<b>MEETING:</b>	<b>STANDARDS COMMITTEE</b>
<b>DATE:</b>	<b>10 JULY 2009-07-02</b>
<b>TITLE OF REPORT:</b>	<b>INTRODUCTION OF STAGE 3 COMPLAINTS PROCEDURE FOR AGGRIEVED COMPLAINANTS</b>
<b>PORTFOLIO AREA:</b>	<b>STANDARDS – LEADER OF THE COUNCIL</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To note and approve this report.

### **Key Decision**

This is not a Key Decision.

### **Recommendation(s)**

**THAT the Standards Committee:**

- (a) **approves the adoption of a Stage 3 complaints process**

### **Key Points Summary**

- The processing of standards complaints have limited avenues of address and in particular the complainant has no redress beyond review of the initial assessment if there is a finding of no breach or no further action.
- The guidance issued by the Standards Board for England recommends that complainants are able to use the mechanism for general complaints against the Council where they are unhappy with the handling of any complaint.
- As this is a three-stage process, it is recommended that complaints of this nature are only dealt with at Stage 3 (top level)
- A complainant who remains aggrieved following the stage 3 procedure can then refer

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Further information on the subject of this report is available from  
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the matter to the Local Government Ombudsman if they so wish.

- These complaints would be restricted to either the conduct of the investigation or the interpretation and reasoning contained in the investigator's report.

## **Introduction and Background**

- 3 The local filter mechanism was revised in 2008 and guidance from the Standards Board was issued in August 2008.

The guidance clearly recommends processing concerns by complainants over the manner in which an investigation is conducted or the manner in which the report is finalised as a service complaint.

## **Key Considerations**

- 4 The Council has a three-stage process for general complaints. Stage 1 is usually investigation and a response by any named individual's Line Manager. At Stage 2 it is escalated to the Director in whose Directorate the issue arises. Clearly to incorporate Stages 1 and 2 into the process for complaints relating to standards complaints would be both unnecessarily lengthy and would provide a poor fit.

- 5 By automatic escalation to Stage 3, the complaint would be put to a panel comprising the Chief Executive, the Leader of the Council and a Group Leader, in the form of a Report. They would then determine whether the complaint is upheld and decide upon any appropriate remedy or change in working practice that would result.

his system is not a means by which a complainant can seek to overturn the decision of any Sub-Committee or the Standards Committee – such a right does not exist. The correspondence sent to any complainant would outline these rights.

The Standards framework is administered by the Monitoring Officer (in Herefordshire Council, the Assistant Chief Executive – Legal and Democratic). The Monitoring Officer has a number of statutory roles and those roles are fulfilled variously by members of the Legal and Democratic Services team and on occasion external providers under guidance and direction of the Monitoring Officer. Against that background, it would be inappropriate for any complaint about the process to be dealt with by a Manager either in the same directorate or elsewhere or by a Director in another directorate. A complaint about the conduct of a standards complaint is effectively a complaint about the actions of one of the Council's statutory officers or his/her staff and it is appropriate that such complaint should be dealt with at Level 3 only.

Although it will be for the Monitoring officer to process the complaint, no person, either the Monitoring Officer or any member of the team who has had any previous involvement in the Standards complaint will be involved in either investigating, writing a report, presenting or advising on the Stage 3 complaint.

At present, there is one complaint that falls to be considered by this means.

The complaint system run by the Council is currently under review and proposals for any revision will be likely to be under consideration by Senior Managers in Autumn 2009.

## **Community Impact**

- 5 It is important that complainants realise that there is an area of redress where reports give cause for concern.

## **Financial Implications**

- 6 None.

## **Legal Implications**

- 7 Whilst the implementation suggested is not a legal requirement, it will assist with regard to the Ombudsman.

## **Risk Management**

- 8 a. There are no risks in accepting this proposal.
- b. There is a risk in declining the proposal that the Ombudsman would find against the Council or the Standards Committee.

## **Consultees**

- 9 None.

## **Appendices**

- 10 None.

## **Background Papers**

- Standards Board for England guidance on complaints about an investigation (“How to conduct an investigation”) p 25-6