

## EAST AYRSHIRE COUNCIL - 27 JUNE 2002

### COMPLAINTS REVIEW SUB-COMMITTEE OF THE SOCIAL WORK COMMITTEE: COMPOSITION IN TERMS OF THE COUNCIL'S SCHEME OF DELEGATION

#### Report by the Chief Executive

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek homologation of the Chief Executive's action in respect of interim arrangements made relative to the composition of the Complaints Review Sub-Committee of the Social Work Committee in order to allow arrangements to be implemented following receipt of a complaint to the Complaints Review Sub-Committee while proceeding in compliance with new guidance from the Scottish Executive.

#### 2. BACKGROUND

- 2.1 The Social Work Committee of 14 November 1996 approved the recommendation of the former Community Care Sub-Committee of 25 October 1996 (Item 2, Page 1501, 96/99) for the establishment of a Complaints Review Sub-Committee of the Social Work Committee for East Ayrshire and the Social Work Committee recommended appropriate amendments to the Scheme of Delegation to accommodate the proposals. The Council at its meeting on 19 December 1996 approved these proposals.
- 2.2 The Council's Scheme of Delegation provides for a Complaints Review Sub-Committee of the Social Work Committee to deal with unresolved complaints pertaining to the Council's Social Work function. At present, the Scheme of Delegation provides for the Sub-Committee to comprise of an independent Chair and two Elected Members drawn on a rota basis from the Social Work Committee membership.
- 2.3 Following a ruling by the English High Court regarding the case of Beeson -v- Dorset County Council, the Scottish Executive has found it necessary to alter the original procedure regarding membership of the Complaints Review Committee/Sub-Committees. The essence of the ruling relates to Article 6 of the European Convention of Human Rights which states that "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".
- 2.4 As a result, Local Authorities must now note that when appointing the membership of a Complaints Review Committee/Sub-Committee, all three Members should comply with the definition of an "independent person" and cannot now include Elected Members.
- 2.5 There is currently nothing in the regulatory framework to prevent Local Authorities from appointing a totally independent panel and thereby removing the existing obstacle to comply with Article 6. No legislative change is therefore required, simply a change of practice.

**3. RECENT REFERRAL TO EAST AYRSHIRE'S COMPLAINTS REVIEW SUB-COMMITTEE**

3.1 While Officers are in the course of developing proposals for the necessary definitive amendments to the Council's Scheme of Delegation in relation to the new provision outlined above, there had arisen a referral to East Ayrshire Council's Complaints Review Sub-Committee. Consequently, in order to ensure that appropriate notification was given to all parties concerned, the Chief Executive in accordance with his delegated authority under the Scheme of Delegation, authorised appropriate interim arrangements to be made to ensure compliance with the new national requirement that three independent persons be appointed to the Sub-Committee and that arrangements for the calling of the Sub-Committee be undertaken.

**4. FINANCIAL/LEGAL/POLICY IMPLICATIONS - Nil.**

**5. RECOMMENDATIONS**

5.1 The Council is requested:-

- (i) to homologate the arrangements made by the Chief Executive;
- (ii) to note that a report will be prepared and submitted to the appropriate meeting of Council in due course in respect of the new provisions for independent membership of the Complaints Review Sub-Committee which will include proposed arrangements for the establishment of a panel of independent Members; and
- (iii) otherwise, to note the report.

David Montgomery  
Chief Executive

21 June 2002

BW/SR

**LIST OF BACKGROUND PAPERS**

- 1. Letter dated 1 May 2002 from the Scottish Executive on Local Authority Complaints Procedure - Beeson Ruling and Amendments to Guidance to Circular SWSG5/1996.
- 2. Scottish Office Circular SWSG5/1996.

Any person wishing to inspect the background papers relative to this report should contact Bill Walkinshaw, Administration Manager, on telephone number (01563)

576135. Any person wishing further information on this report should contact Bill Walkinshaw, Administration Manager on telephone number (01563) 576135.

**Implementation Officer: Bill Walkinshaw, Administration Manager.**

**AGENDA**