

REPORT

Procedure for determination of complaints referred by the Standards Board

1. Purpose of Report

The purpose of this report is to seek the Committee's views on the proposed procedure for the determination of complaints which have been referred to the Committee by the Standards Board (the Board).

2. The Procedure

- 2.1. The Board has issued guidance on how to determine complaints that are referred down to it. The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003 provide that standards committees must take the guidance into account when determining their own procedures
- 2.2. A draft procedure has been prepared and is attached to this report as Appendix 1. It has been based on the Guidance.
- 2.3. A summary of the new procedure is as follows:
 - As soon as the complaint is referred to the Council there will be an exchange of correspondence to identify areas of dispute and agreement. Officers consider that this is best carried out by the Monitoring Officer. Failure to challenge a point may result in a party being unable to dispute that issue. This procedure is in the form of a working guideline so that it is easy to adapt depending on experience
 - The Guidance provides for a pre-hearing procedure and suggests this should usually be carried out in writing. There may however be cases where it is appropriate for the Committee itself to have a pre-hearing review at which it will decide those issues that will be covered at any subsequent hearing and decide what witnesses to hear. Note, the Committee can call its own witnesses if it believes their evidence will be relevant and has not already been covered.
 - Hearings will take place in front of the Committee The Guidance suggests 3 or 5 members. This is a matter for the committee to decide upon. 3 members would keep it small. However the Committee may decide that the whole Committee of 5 should sit. In this case it would be appropriate for the deputy members who are attending as observers should not sit with the Committee to avoid confusion. If the Committee decided that only 3 of their number should sit then these will be selected on the basis of availability and must include an external member and, if a parish or town councillor is the subject of the complaint, a town or parish representative. There are advantages to both proposals and it is recommended that the Committee decides which to adopt.

- The presumption is that any final hearing will take place by written representation unless the member concerned requests otherwise.
- At the hearing the Committee will only take evidence on points of dispute and will limit the number of witnesses called in any event.
- The presumption is now that all hearings will take place in public. There can be exceptions but it is clear from the guidance that if there is a need for any part of the hearing to be held in exempt session then it should be that part only and not the whole hearing. Indeed it may be that it is only part of the Ethical Standards Officer's report or some written evidence that needs to be kept confidential or exempt and that the whole hearing itself can be in open session.
- Members have a right of appeal to the Adjudication Panel for England. Clearly we will need to be represented at such hearings and it is proposed that the Monitoring Officer and the person who chaired the relevant hearing will attend.

3. The Next Steps

- 3.1 It is suggested that the Committee consider the draft procedure and discuss any points that are unclear or cause concern but not adopt the procedure until the next meeting. This will enable Members to attend the training session in Devizes on the 26th September which may help clarify some of the issues and assist when the time comes to formally adopt the procedure.
- 3.2 Once the final procedure has been agreed and adopted it is suggested that this is referred to full Council and appended to the Terms of Reference of the Standards Committee. It is also suggested that Council be asked to delegate to this Committee the authority to make any changes to the procedure that become necessary once it has been put into practice or if new guidance comes out from the Board.

4. Recommendation

It is recommended that the Committee agree the suggestions set out above.

5. Background Papers

The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003.

Standards Committee determinations – Guidance for monitoring officers and Standards Committees issued by the Standards Board for England.

6. Implications:

Financial:

Legal: Contained in the report.

Human Rights: The Guidance issued by the Board has taken account of the Human Rights considerations of the various parties concerned.

Personnel: None

Community Safety: None

Environmental implications: None

Council's Core Values:

Wards Affected: All