

Report of: Head of Legal and Democratic Services

To: Standards Committee

Date: 24th April 2008

Item No:

Title of Report : Procedure for the local determination of alleged breaches of the Member Code of Conduct.

Summary and Recommendations

Purpose of report: To advise the Committee of the procedure for the local determination of alleged breaches of the Member Code of Conduct.

Key decision: No

Portfolio Holder: N/A

Scrutiny Responsibility: N/A

Ward(s) affected: All

Report Approved by

Legal: Jeremy Thomas,
Finance: Sarah Fogden

Policy Framework: N/A

Recommendation(s): That the Committee approve and adopt the attached procedure note.

1. It is appropriate from time to time to keep procedures under review. The Committee had previously adopted a procedure in respect of local hearings. I have reviewed and re-drafted the note and present the revised version for approval and adoption by the Committee.

Recommendations

2. The Committee is recommended to approve and adopt the attached procedure note.

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Background papers: None

Local Determination of Alleged Breaches of the Code of Conduct for Members – Procedure Note

Applicability

1. This Procedure Note applies to cases where:
 - An Ethical Standards Officer (ESO) investigating an allegation finds a breach of the Member Code of Conduct and refers the matter to the Monitoring Officer for local determination;
 - Where the Monitoring Officer investigating an allegation finds a breach of the Member Code of Conduct and refers the matter to the Standards Committee for determination; and
 - Where the Monitoring Officer investigating an allegation finds that there has been no breach of the Member Code of Conduct but the Standards Committee determines that the matter should be considered by a hearing of the Standards Committee.

Relevant Law

2. This procedure note has been produced, having regard to sections 64 and 66 of the Local Government Act 2000; section 185 Local Government and Public Involvement in Health Act 2007 and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

Timescales

- 3 The Standards Committee shall ensure that the hearing is held at least 14 days after the report is sent to the Member but within 3 months of the date on which the Monitoring Officer received the report (unless in either case the Member concerned agrees to the hearing being held earlier).

The Hearing

4. When conducting the hearing, Standards Committee shall have regard to the guidance published by the Standards Board for England on the procedure for Local Determination.
5. The Member concerned must be given the opportunity to present evidence in support of his case and be allowed to make either oral or written representations to the hearing.
6. The Member may be represented by counsel, a solicitor or, (provided the Standards Committee gives prior consent) by any person whom he wishes to represent him.

7. If a Member fails to attend the hearing of which he has had notice, the Standards Committee may consider the report and make a determination in the absence of the Member or adjourn the hearing to another date.
8. The Standards Committee may adjourn a hearing and require the Monitoring Officer to seek further information/undertake further investigation on any point specified by the Committee (the hearing may only be adjourned for this purpose once.)
9. The Standards Committee may adjourn the hearing and may make a written request to the ESO that the matter be referred back for him to undertake an investigation. When making such a request the Committee must set out their reasons for it.
10. The ESO must respond to the request in within 21 days and may direct
 - that the matter be referred to him for investigation, in which case the standards committee shall cease its consideration of the matter; or
 - direct the Standards Committee to continue to deal with the matter (within 3 months of the ESO's direction).

Findings of Standards Committees

11. Following a hearing the Standards Committee shall make one of the following findings;
 - that the Member concerned did not fail to comply with the Code of Conduct;
 - that the Member concerned failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered by the Committee;
 - that the Member concerned failed to comply with the Code and that a sanction should be imposed;
12. The Committee can impose any one of, or combination of, the following sanctions:
 - censure of that Member;
 - restriction of up to a maximum of 3 months of that Member's access to the premises of the authority and the Member's use of resources (provided that such restrictions will not unnecessarily restrict the Member's ability to carry out their responsibilities as an elected/co-opted Member);

- suspension or partial suspension for a maximum period of 3 months; or
 - suspension or partial suspension for a maximum period of 3 months or until such time as the Member submits a written apology or undertakes training or conciliation as specified by the Committee.
13. Where the Committee is seeking to impose a sanction on a person who is no longer a Member of the authority, censure is the only penalty available to them.
14. Any sanction imposed will usually commence immediately following its imposition by the Committee. However, the Committee may decide that a sanction should commence any time up to 6 months after it is imposed.

Notice of Findings

15. As soon as reasonably practicable, the Standards Committee shall provide a written notice of the findings with the reasons for such a finding to all parties concerned.
16. Where the Committee determines there has been a failure to comply with the Code, the notice must state;
- the nature of the failure;
 - the action to be taken (if any);
 - the right of appeal
17. The Monitoring Officer will arrange for a summary of the notice to be published in two newspapers circulating in the area of the authority and on the Council's website. (If the finding is that there has been no failure to comply with the Code, the Member may request that the finding is not published in the local newspapers).

Right of Appeal

18. Where the Standards Committee determines that a Member has failed to comply with the Code, the Member shall be informed of their right to appeal against the determination.