

PROCESS FOR STANDARDS HEARINGS

Officer contact: Julie Openshaw, District Solicitor and Monitoring Officer
Tel: 01494 421252
Email: Julie.openshaw@wycombe.gov.uk

Wards affected: All

PROPOSED DECISION

No decision is required; the Committee is invited to consider and note the report.

Corporate Implications

1. The Localism Act 2011 contains the current legislative arrangements for elected member standards of conduct within local authorities. This superseded and repealed the previous legislation contained in the Local Government Act 2000.
2. Under the provisions of Section s 27 and 28 of the Localism Act there remains a duty to promote and maintain high standards of conduct by elected and co-opted members when acting in that capacity, to adopt a Code of Conduct which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership, and to have arrangements in place for the investigation of allegations and making decisions upon them. The Council's current arrangements which are outlined in this report and the report considered by Committee on 3 June 2014 have been put in place in light of these requirements.

Executive Summary

3. This report summarises the role of the Hearings Panel, and processes supporting it, as set out in the Council's Arrangements for Dealing with Standards Allegations under the Localism Act 2011.

Sustainable Community Strategy/Council Priorities - Implications

4. Having a clear and legally compliant process for handling complaints relating to Member conduct links into the Council's Corporate Plan Priority which commits it to "Engaging and working with our communities (people)".

Background and Issues

5. On 3 June, Standards Committee considered a report which provided an overview and review of current standards arrangements for elected members. Members are referred to the information about the process contained in that report.
6. As part of the analysis of the process for handling complaints about Member conduct, the report, at paragraph 14, touched upon the role of the Hearings Panel as part of the process. At the Chairman's request, this report now provides additional detail about the role of Hearings Panels, the membership of which is drawn from the Standards Committee.

7. A Hearings Panel may need to be set up in relation to any complaint where the Monitoring Officer, having consulted with one of the Independent Persons, concludes that the complaint should be referred for formal investigation. In such circumstances, the Monitoring Officer would first appoint an Investigating Officer, who could be a senior officer of the Council or another Council, or an external investigator.
8. The Investigating Officer would carry out an investigation, normally by speaking to the complainant, subject member, and possibly other people, and would submit a draft report to the parties for comment; taking into account any comments received, the Investigating Officer would then submit the final report to the Monitoring Officer.
9. If the Monitoring Officer was not satisfied that the Investigating Officer had conducted the investigation properly, then the Investigating Officer could be asked to reconsider the report. Otherwise, and normally, the Monitoring Officer would simply review the investigation report, and could then decide either to send the matter for local hearing before a Hearings Panel, or, again after consulting with an Independent Person, to seek local resolution.
10. Local resolution, if sought, might include action such as the member accepting that his/her conduct was unacceptable, and offering an apology, or some other remedial action. If the member was willing to comply with the suggested action, this would be reported to the Standards Committee (and the Parish Council, if a Parish Member was involved) but no further action would be taken. If, however, the complainant considered any suggested resolution would not be adequate, the Monitoring Officer would refer the matter for local hearing before a Hearings Panel. The role of the Panel would be to decide if the Member had failed to comply with the Code of Conduct, and if so, whether to take any action in respect of a breach.
11. The Council's Constitution, at pages 5B-12 to 5B-21 contains a full description of the Hearings Panel process, including the way in which the Chairman should chair the meeting, and the order of proceedings.
12. Prior to the hearing, the Monitoring Officer would conduct a pre-hearing process, where the Member would be required to give a response to the Investigating Officer's report. The objective would be to identify what might be agreed and what might be in contention at the hearing, and the Chairman of the Hearings Panel may issue direction as to the manner in which the hearing will be conducted. Rules for the setting of a date and sending of documentation are included in the Standards complaints procedure in the Constitution.
13. The Hearings Panel would consist of a maximum of 5 members of the Standards Committee, including not more than one member of the Cabinet, and comprising members drawn from at least two political parties. The quorum is 3 members. The Independent Person would be invited to attend and express views at the appropriate junctures. The Council has appointed two Independent Persons. They are persons who have applied for the role following advertisement and have been appointed by a positive vote from a

majority of full Council. A fuller list of criteria for appointment is included in the Standards complaints procedure in the Constitution.

14. At the hearing, the Panel can take legal advice both during the hearing and during deliberations. Whether or not the advice is given in the presence of all the parties and Independent Person, it should be shared with them. The Panel can exclude press and public if it appears likely that confidential or exempt information would be disclosed.
15. The Investigating Officer would first present his/her report, and may call such witnesses as are considered necessary. Representations may be made to substantiate the conclusion that the Code had been breached. The Complainant can be asked to attend and give evidence, although the Complainant could not be compelled to do so.
16. The Member would then have the opportunity to give evidence, call witnesses if desired, and to make representations to the Panel. The panel, taking into account any advice which the Independent Person may wish to give, can either dismiss the complaint, or may conclude that the Code was breached, in which case it will consider what, if any, action to take. The Member may make further representations if this happens.
17. The sanctions open to the Panel are similar for both District and Parish Members, but reflect the slightly different roles and groupings. The Hearings Panel has no power to suspend or disqualify a member, or to withdraw their basic or special responsibility allowances.
18. The full range of options for a District Councillor are:
 - a. Censure or reprimand;
 - b. Publication of the Panel's findings in relation to the conduct;
 - c. Report of the findings to Council for information;
 - d. Recommendation to the Group Leader (or for Independent Members, to Council or Committees) that he/she be removed from all or any Committees or Sub-Committees of the Council;
 - e. Recommendation to the Leader that the member be removed from Cabinet, or particular Portfolio responsibilities;
 - f. Recommendation to Council that the member be replaced as Executive Leader;
 - g. Instructing the Monitoring Officer to arrange training for the member;
 - h. Removing the member from all outside appointments to which he/she has been appointed or nominated by the Council;
 - i. Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and internet access;

- j. Excluding the member from the Council's offices or other premises, except meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
19. The full range of options for a Parish Councillor are:
- k. Censure or reprimand;
 - l. Publication of the Panel's findings in relation to the conduct;
 - m. Report of the findings to the Parish Council for information;
 - n. Recommendation that the Parish Council arranges training for the member;
 - o. Recommendation to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed by the Parish Council;
 - p. Recommendation that the Parish Council withdraws facilities provide to the member by the Council, such as a computer, website and/or email and internet access;
 - q. Recommendation that the Parish Council excludes the member from the Council's offices or other premises, except meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Options

20. There are no options; the report is for information and noting only.

Conclusions

21. The report is for information and noting only.

Next Steps

22. Any current and ongoing complaints about Member conduct will continue to be handled under the arrangements contained in the Constitution.

Background Papers

Agenda Item 5 submitted to Standards Committee on 3 June 2014.