

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Constitution Review Working Party 12 January 2007
AUTHOR/S: Chief Executive / Deputy Monitoring Officer

PROCEDURE FOR LOCAL STANDARDS COMMITTEE HEARINGS

Purpose

1. On 8 November 2006 the Standards Committee recommended to Council that the Procedure for Local Standards Hearings be adopted, replacing the existing Local Standards hearings procedure at Part 5 Section M of the Constitution.

Background

2. Under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 Ethical Standards Officers (ESOs) can refer completed investigation reports to monitoring officers for Standards Committees to determine whether or not a member has failed to follow the Code of Conduct and, if so, what penalty should be applied, if any. Under Section 6(2) of these regulations, Standards Committees must have regard to any guidance issued by the Standards Board for England (SBE) as well as the legislation. This guidance is issued in the form of a publication "Standards Committee determinations – Guidance for Monitoring Officers and Standards Committees", which was issued in July 2003.
3. All members of the Standards Committee were asked to make representations on the draft procedure to the last meeting of Standards Committee and agreed amendments have been incorporated.

Considerations

4. The council already has a Standards Committee Hearings Procedure Protocol contained in its Constitution, which was drafted to incorporate the legislation at the time the constitution was drafted.
5. The new procedure aims to incorporate all the legislation and SBE guidance in one document. The primary legislation is the Local Government Act 2000 (Part III) which provides a broad framework. The specific details for conducting standards committee hearings are to be found in secondary legislation – The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004. The Local Government Act 2003 also introduced two new sections, 54A and 82A, which have implications for standards committee hearings. Section 54A gives standards committees powers to appoint sub-committees to discharge their functions (including the function of conducting a hearing) and Section 82A gives monitoring officers powers to nominate another person to carry out their functions. All the legislation must also be read alongside the SBE guidance.
6. New Regulations governing local investigations and hearings are likely to be issued by the Government alongside the legislative change which will move the focus to a more locally-based framework. Some of the outstanding concerns about the processes may be met by these new Regulations.

7. The key differences between the new model procedure and the existing procedure are:
- (a) it incorporates the pre-hearing procedure that must be followed
 - (b) it divides the procedure to be followed into those hearings which follow an ESO's report and those hearings which follow a local investigation
 - (c) it incorporates preliminary procedural issues such what to do if the subject member does not turn up at the hearing and the issue of whether the hearing should be in public
 - (d) it utilises the name of "Investigating Officer" to mean either the ESO who referred the report to the council or their nominated representative or, in the case of a local investigation, the Monitoring Officer or their nominated representative.
8. The Standards Committee has the right to govern its own procedures, subject to the legislation and guidance, but like all public bodies it has an obligation to ensure that its procedures are procedurally fair. This incorporates the right to a fair hearing and the absence of bias. Where members are taking procedural decisions they must be taken in the light of these over-arching obligations.

Options

9. Options before Council are:
- (a) To retain the existing Standards Committee Hearings Procedure Protocol;
 - (b) To amend the new procedure before adopting it; or
 - (c) To agree the new procedure as recommended by Standards Committee and send it to Full Council for ratification.

Implications

10. Financial	None
Legal	Need to change Constitution to incorporate new procedure
Staffing	None
Risk Management	None
Equal Opportunities	None

Consultations

11. Standards Committee

Effect on Annual Priorities and Corporate Objectives

12. Affordable Homes	None
Customer Service	None
Northstowe and other growth areas	None
Quality, Accessible Services	None
Village Life	None
Sustainability	None
Partnership	None

Conclusions/Summary

13. The Standards Committee have decided, after much deliberation, to adopt a new hearings procedure and the Constitutional Review Working Party is asked to ratify this procedure and recommend its adoption to Full Council.

Recommendations

14. Option C is recommended for approval.

Background Papers: the following background papers were used in the preparation of this report:

Procedure for Local Standards Hearings
Standards Committee Hearings Procedure Protocol
SBE publication: "Standards Committee Determinations – Guidance for Monitoring Officers and Standards Committees"
Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483)
Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 (SI 2004/2617)
Local Government Act 2000 (Part III)

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