

Leicester
City Council

WARDS AFFECTED
Type in Ward

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Standards Committee **24th September 2003**

Standards Committee – Local Determination of Allegations

Report of the Corporate Director of Resources, Access and Diversity

1. Purpose of Report

To adopt a procedure for dealing with completed Ethical Standards officer investigation reports which have been referred to the Monitoring Officer for Standards Committee consideration.

2. Summary

To adopt a procedure under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 to enable the Standards Committee to consider investigations made by an Ethical Standards officer in order to decide whether or not a Member has failed to follow the City Council's Political Conventions and if so, what penalty should be applied, if any.

3. Recommendations

The Committee is recommended to:-

- (i) Note the guidance produced by the Standards Board for England, titled "Standards Committee determinations – Guidance for monitoring officers and Standards Committees".
- (ii) Comment upon and adopt the associated detailed procedure for dealing with completed Ethical Standards Officers investigations reports, which have been referred to the Monitoring Officer for Standards Committee consideration, contained at Appendix A to the Supporting information.

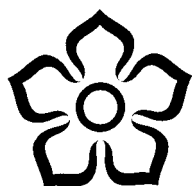
4. Headline Financial and legal Implications

There are no financial implications.

The legal implications are contained throughout the body of the report.

5. Report Author/Officer to contact:

Tom Stephenson
Corporate Director of Resources, Access and Diversity
extn. 6300



Leicester
City Council

WARDS AFFECTED
Type in Ward

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Standards Committee

24th September 2003

Standards Committee – Local Determination of Allegations

SUPPORTING INFORMATION

1. Report

1.1 Background

The Local Government Act 2000 introduced a new ethical framework for local government, including a Code of Conduct for Council Members and the setting up of Standards Committees. The Act also created the Standards Board for England and provides for it to investigate allegations of misconduct against Council Members. As reported to the last meeting of this Committee, the Regulations governing local determination by the Standards Committee on matters that had been investigated by the Ethical Standards Officers of the Standards Board for England were laid before Parliament in June 2003. The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (No 1483) came into force on 30th June 2003.

- 1.2 The Standards Board for England has produced a booklet entitled “Standards Committee Determinations – Guidance for Monitoring Officers and Standards Committee”. A copy of this booklet is attached for the information of Members of the Committee. The text can also be downloaded from the Standards Board for England’s website
www.standardsboard.co.uk/pdfs/guidance/standards_committee_determinations.pdf.

2. Context

- 2.1 This report sets out the procedure to be followed when considering allegations of misconduct by Councillors following an investigation by the Standards Board through its Ethical Standards Officer. The Standards Committee must hold a formal hearing to determine whether or not any action should be taken as a consequence. It must consider the evidence put before it and reach a conclusion, on the balance of the information available, as to whether or not a breach of the Political Conventions has occurred.

- 2.2 If, having considered the Ethical Standards Officer's report, the Standards Committee believes that a breach of the authorities Code of Conduct has occurred, then it will give the Councillor concerned the opportunity to make representations to it before a final decision is made. The Councillor may make representations as to any action the Committee should take in respect of the Councillor in order to rectify the misconduct or prevent any further breaches.
- 2.3 The sanctions available to the Committee are outlined in Appendix 2 of this report and include censuring the Councillor, suspension and withdrawal of access to the authority's facilities. When deciding on an appropriate penalty, the Standards Committee may want to consider decisions made by other Standards Committees and the Adjudication Panel for England who deal with similar types of cases. The Standards Committee's website will include appropriate summaries to assist committees in achieving consistent penalties.
- 2.4 The Local Determination Regulations do not cover investigations at a local level. The Office of the Deputy Prime Minister plans to issue more regulations to provide a framework for ESO's to refer matters to monitoring officers for investigation. These are now expected to be issued during the autumn. Once issued it will be the aim to produce one integrated procedure for this Committee's approval.
- 2.5 A draft detailed procedure, to be followed by the Standards Committee is given at Appendix 1 of this report.

FINANCIAL, LEGAL AND OTHER IMPLICATIONS

1. Financial Implications

There are no financial implications.

2. Legal Implications

Legal implications are contained within the body of the Report (Peter Nicholls)

3. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	No		
Policy	No		
Sustainable and Environmental	No		
Crime and Disorder	No		
Human Rights Act	Yes	The proposed procedure adheres to the principles contained within the Human Right Act	
Elderly/People on Low Income	No		

4. Background Papers

- Local Government Act 1972
- The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (No 1483)

5. Consultations

None

6. Report Author

Tom Stephenson
Corporate Director of Resources, Access and Diversity
extn. 6300

Appendix 1

Leicester City Council Standards Committee Procedure for Complaints Against Council Members

1. If any person reasonably believes that a Council elected or co-opted Member has broken the Council's Political Conventions (which incorporate the national Model Code of Conduct), they can write to the [Standards Board for England](#). The Standards Board has the statutory powers to investigate allegations that individual Members have breached the Conventions and Code.
2. An Ethical Standards Officer (ESO) at the Standards Board will undertake an investigation. After the investigation is completed the ESO may refer the case to the Council's Monitoring Officer (the Town Clerk) so that it can be considered by the Standards Committee who will make a 'local determination'. Cases that have been referred back will be dealt with under this procedure.

Procedure

3. The person(s) making the complaint is referred to in this procedure as the Complainant and the person against whom the complaint is made is referred to as the Member.

Aim and Timescale

4. The main purpose of this procedure is for the Standards Committee to decide whether or not the Member has failed to follow the Political Conventions and, if so, to decide what, if any penalty should be applied. The Committee may not reopen the ESO's investigation but will give the Member the chance to make representations.
5. The Standards Committee must hold a hearing about the complaint within 3 months of the Town Clerk receiving the ESO's report. The time limits in this procedure will therefore be strictly applied unless there is good reason to extend them.

Notifying the Member and Complainant

6. Within five working days of receiving the ESO's report, the Town Clerk will send a copy to the members of the Standards Committee, the Member and, where possible, the Complainant. He will emphasise that the report is confidential and anyone subject to the Political Conventions would be committing a breach by failing to observe its confidentiality.

Pre-hearing Process

7. If the Town Clerk considers that the nature of any previous involvement he has had in the matter makes it inappropriate for him to be the Committee's advisor on the complaint, he will appoint another officer to undertake that role and oversee the process. References in this procedure to the "Town Clerk" will, in such cases, mean that other officer.
8. A pre-hearing process will normally be used to clarify procedural issues and help ensure the smooth running of the hearing. This will usually be carried out in writing, although

occasionally a face-to-face meeting between the Chair of the Committee, the people involved and their representatives may be necessary.

9. When the ESO's report is provided, the Member will be asked for a written response, within fifteen working days. This should state whether or not he/she:
 - disagrees with any of the findings of fact in the ESO's report; if so, the reasons for any disagreement must be given
 - wants to be represented, at their own expense, at the hearing by a solicitor, barrister or any other person; if so, the person and his/her capacity must be identified
 - wants to give evidence to the Standards Committee, either verbally or in writing
 - wants to call relevant witnesses to give evidence to the Standards Committee; if so each must be identified and a justification given as to why the Committee should hear their evidence
 - wants any part of the hearing to be held in private; if so, reasons must be given
 - wants any part of the ESO's report or other relevant documents to be withheld from the public; if so, reasons must be given
10. The Town Clerk will also inform the Member that:-
 - if he/she seeks, at the hearing, to dispute any matter contained in the ESO report, without having previously notified the Town Clerk as above of their intention to do so, the Committee may refuse to allow the disputed matter to be raised unless there is good reason for so doing.
 - The hearing will go ahead in the Member's absence if he/she does not attend, unless the Committee is satisfied there is good reason for the non-attendance.
11. After the deadline for the Member's response, any response received will be forwarded to the ESO giving fifteen working days to:-
 - provide any comments or the Member's response
 - say if he/she wants to be represented at the hearing
 - say if he/she wants to call relevant witnesses to give evidence to the hearing
 - say if he/she wants any part of the hearing to be held in private (with reasons)
 - say if he/she wants any part of the ESO's report or other relevant documents to be withheld from the public (with reasons)
12. The Town Clerk will forward any responses from the Member and the ESO to the Chair of the Committee. The Chair will then decide which, if any, witnesses should be called to the hearing. The Chair may limit the number of witnesses if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or not will otherwise provide evidence that will assist the Committee to reach its decision.
13. Everyone involved will be given the following information at least ten working days before the hearing;
 - the formal agenda for the hearing
 - the date, time and place of the hearing (which must be within three months of the Town Clerk receiving the ESO's report).

- a summary of the allegation
- the main facts of the case that are agreed
- the main facts that are not agreed
- who will attend the hearing or will be represented
- which witnesses will be asked to give evidence
- an outline of the proposed procedure for the hearing, specifying which parts, if any, are likely to be considered in private

The Hearing

14. The hearing will be a formal meeting of the Standards Committee, which will decide which, if any, part of the hearing will be open to the public and press under the relevant access to information legislation. The Committee will be advised by the Town Clerk.
15. The Committee will make its decision on the balance of probability, having considered the ESO's report, any further evidence, representations made and other relevant factors.
16. The Committee may vary the procedure at the hearing if there is good reason but the order of business will normally be;
 - (i) Introductions
 - (ii) Declarations of interest
 - (iii) Consideration, if the Member is not present, as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present .
 - (iv) Any representation as to whether the whole or part of the hearing should be held in private.
 - (v) Consideration of the ESO's report and any written representations from the ESO and the Member.
 - (vi) Evidence from any witnesses, in the order the Chair decides is most appropriate. The Chair will decide the way in which questions are put to witnesses, including the order of questioning and whether questions may be put direct to the witness, or through the Chair. Committee Members, the Member (or representative) and the ESO (or representative) will be entitled to put relevant questions.
 - (vii) Oral representations from:-
 - the ESO (or representative)
 - the Member (or representative)
 - (viii) Consideration of its decision by the Committee (in private)
 - (ix) Announcement of decision, with reasons, or of arrangements for an announcement if an immediate decision is not possible

Findings and Penalties

17. The Committee may make one of the following findings;
 - That the Member has not failed to comply with the Political Conventions
 - That the Member has failed to comply with the Political Conventions, but that no action needs to be taken
 - That the Member has failed to comply with the Political Conventions and should be penalised
18. The penalties available to the Committee are in the Appendix. Any penalty must be reasonable and proportionate to the behaviour. Any penalty imposed must commence immediately upon the decision of the Committee, unless the Committee determines (for specified reasons) that a penalty comprised within paragraphs 2 to 6 of the Appendix will commence on such a date as they may determine being no later than 6 months after the date of the decision.
19. The Committee may recommend that the Council considers remedial or other action arising from the matter.

Notice of Decision and Right of Appeal

20. The Town Clerk will provide the Member by the end of the second working day after the decision is announced with a notice containing;
 - the Committee's decision
 - the reasons for the decision
 - the Member's right to apply for permission to appeal to the Adjudication Panel for England within 21 days of receiving the notice.
21. The notice will also be sent to the Member, the Complainant (where possible), the ESO, and the members of the Standards Committee
22. At the same time, the Town Clerk will arrange for a summary if the Committee's finding to be published in a local newspaper as follows;
 - Finding of no failure to comply with the Conventions: statement of that finding with a summary unless the Member requests no summary (when only the statement will be published)
 - Finding of failure to comply but no action needs to be taken: statement of that finding with details of the failure, reasons for Standards Committee's decision and a statement that the Member may apply for permission to appeal
 - Finding of failure to comply and that the Member should be penalised: statement of the finding, with details of the failure, the reasons for the Standards Committee's decision, the penalty and a statement that the Member may apply for permission to appeal.

Penalties Available To The Standards Committee

A Penalties available in respect of a Member who has ceased to be a Member at the date of the meeting.

Censure of the Member.

B Penalties available in respect of a Member who remains a Member at the date of the meeting.

Any one, or a combination, of the following:-

1. Censure of the Member
2. Restriction for a maximum period of three months of that Member's access to the premises of the Council and that Member's use of the resources of the Council, provided that any such restrictions imposed upon the Member;
 - a) are reasonable and proportionate to the nature of the breach; and
 - b) do not unduly restrict the Member's ability to perform his or her functions and duties as a Member;
3. Partial suspension of the Member for a maximum period of three months;
4. Partial suspension of the Member for a maximum period of three months or until such time as he submits a written apology or undertakes any training or conciliation by the standards committee;
5. Suspension of the Member for a maximum period of three months;
6. Suspension of the member for a maximum period of three months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Standards Committee.