



## **STANDARDS COMMITTEE – DETERMINATIONS**

### **1. MONITORING OFFICER INVESTIGATION**

On completion of an investigation the Monitoring Officer must make one of the following findings:

- There has been a failure to comply with the Code.
- There has not been a failure to comply with the Code.

She must write an investigation report and send a copy of it to the subject member.

### **2. ETHICAL STANDARDS OFFICER INVESTIGATION**

Where a Standards Board Ethical Standards Officer has completed an investigation and decided that a complaint should be determined by the Standards Committee they will refer their report to the Monitoring Officer. She must refer the report to the Standards Committee.

### **3. CONSIDERATION**

- 3.1 The full Standards Committee less 5 appropriate Members will receive and consider a Monitoring Officer's investigation report or an investigation report compiled by an Ethical Standards Officer.
- 3.2 If the investigator's report finds no failure to comply with the Code, the Standards Committee must decide whether to accept that recommendation. The Committee must also decide, if appropriate, whether the Hearing Sub-Committee or the Adjudication Panel for England should hear the case. This preliminary decision must be formally made and recorded.
- 3.3 A meeting of the Standards Committee to consider the Monitoring Officer's investigation report must be convened under Regulation 17. Regulation 8(6) allows the consideration of any information presented for that purpose to be considered as exempt information.
- 3.4 As with all exempt information decisions, the Standards Committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. When advising on this

matter the Monitoring Officer should consider the effect of Regulation 17(4). This regulation allows the subject member to prohibit the publication of a notice, stating that the Standards Committee has found that there has been no failure to comply with the Code.

- 3.5 Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the meeting. In most cases, the public interest in transparent decision-making by the Standards Committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.
- 3.6 A member of the Standards Committee who considers and overturns a Monitoring Officer's finding that there has been no failure to comply with the Code may participate in a subsequent hearing.
- 3.7 This meeting to consider the Monitoring Officer's investigation report provides a useful opportunity for the Standards Committee to consider the potential issues which might arise during the pre-hearing process. This consideration meeting is separate to the meeting at which the hearing is conducted.
- 3.8 If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the Standards Committee decides that the matter should be referred to the Adjudication Panel for England for determination.

#### **4. HEARINGS**

- 4.1 Under Regulation 18, a Standards Committee must hear a complaint within three months of the date on which the Monitoring Officer's report was completed. If the investigation was carried out by an Ethical Standards Officer, the Standards Committee must hear the complaint within three months of the date that the Monitoring Officer received the Ethical Standards Officer's report. The Standards Committee has appointed a Hearings Sub-Committee to hold determination hearings.
- 4.2 **Membership of the Hearing Sub-Committee** – 5 members (at least 1 Independent Member - who will be appointed as the Chairman of the Sub-Committee, 1 elected member and at least 1 parish representative when considering parish matters).
- 4.3 **Purpose** – To decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take.
- 4.4 When the Hearing Sub-Committee is convened for a hearing under Regulation 18 it is also subject to Regulation 8(6). When assessing whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the Council Secretary and

Solicitor will consider the effect of Regulation 20(2). This allows the subject member to prohibit normal publication of the Committee's notice of the finding of no failure to comply with the Code of Conduct.

4.5 Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a hearing. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the hearing. In most cases, the public interest in transparent decision-making by the Standards Committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined. In most cases all parties will agree that the hearing should take place in public. It is sensible to seek the views of the relevant parties as early as possible to allow for legal advice to be sought if required.

4.6 A copy of the report will be given to:

- the subject member
- the clerk of any relevant Parish Council
- the Standards Committees of any other Authorities concerned.

4.7 The hearing must take place at least 14 days after the subject member receives a copy of the report from the Monitoring Officer. However, the hearing can be held sooner than 14 days after the member receives a copy of the report if the subject member agrees. The Hearing Sub-Committee may consider the report in the subject member's absence if the subject member does not go to the hearing. If the Standards Committee is satisfied with the subject member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

4.8 If the Hearing Sub-Committee does not hear the matter within three months of receiving the completed report, it must ensure that the matter is heard as soon as possible after that. Except in the most complicated cases, the Hearing Sub-Committee will aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. It is noted that late night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

## **5. PRE-HEARING PROCESS**

The Standards Committee has a pre-hearing process to allow matters at the hearing to be dealt with fairly and economically. It alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.