
REPORT TO:	STANDARDS COMMITTEE	AGENDA ITEM: 4
DATE OF MEETING:	17TH NOVEMBER 2009	CATEGORY: DELEGATED
REPORT FROM:	MONITORING OFFICER	OPEN
MEMBERS' CONTACT POINT:	ANDREA McCASKIE, HEAD OF LEGAL & DEMOCRATIC SERVICES AND MONITORING OFFICER (EXT. 5831)	DOC: U:\JAYNE\Committee\COMMREP\Standards Procedural Aspects 2.doc
SUBJECT:	CONSIDERATION OF PROCEDURAL ASPECTS INTO AN ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT	REF: AGM/JB

1.0 Recommendations

1.1 That the Committee takes no further action for the reasons set out in the report, makes no findings of fact in respect of the complaint allegation and now considers that this matter is concluded.

2.0 Purpose of Report

2.1 To receive advice on how to progress an allegation of a breach of the Members' Code of Conduct.

3.0 Detail

3.1 On 13th August 2009, a Standards Sub-Committee (Hearing) was informed that a finding made by the Standards Sub-Committee (Consideration) on 10th June 2009 was not one it was entitled to make under the Standards Committee (England) Regulations 2008. Accordingly, it was resolved to decline to consider a complaint that had been placed before it for determination for lack of jurisdiction and referred it to the Standards Committee to determine how this matter could be progressed.

3.2 The question before this Committee is what steps can be taken, if any, to resolve this outstanding complaint. There is no provision in the Local Government Act 2000 or the Standards Committee (England) Regulations 2008 ("the Regulations"), expressly providing for this situation.

3.3 Despite the fact that the legislation does not provide for a redetermination in these circumstances, if the Committee was minded to refer the matter back to the Standards Sub-Committee (Consideration) on the basis that its previous decision on the allegation was one that it was not entitled to make and it should reconsider the matter on a correct view of the requirements of Regulation 17, then the Determination Hearing would take place significantly outside the time limit provisions of Regulation 18.

3.4 Any decision subsequently made by the Determination Hearing would be open to a judicial challenge on the basis that there had not been substantial compliance with the time limit provisions of Regulation 18, which states that a hearing of the Standards Committee is to be held within three months of the Investigating Officer's report being completed and if not, as soon as reasonably practicable thereafter. The Investigating Officer's report was completed on 12th May 2009. Additionally, there may also be a challenge of apparent bias or predetermination, given the fact that the Minute of the Standards Sub-Committee (Consideration) on 10th June 2009 was received by Full Council and the Standards Committee received a Summary Report of the matters dealt with and a copy of the Decision Notice. For these reasons, it is recommended that no further action be taken in relation to the complaint.

4.0 Financial Implications

4.1 None directly arising from the decision Members are being asked to make. However, a claim has been advanced against the Council which has been passed to the Council's insurers for their consideration.

5.0 Corporate Implications

5.1 Whilst it is a requirement for the Standards Committee to deal with alleged breaches of the Code of Conduct locally for District Councillors and Parish Council Members, in this case there is no statutory provision to re-determine the matter.

6.0 Community Implications

6.1 The Council's Standards Committee continues to play a vital role in promoting and maintaining the highest standards of conduct by District and Parish Members.