

STANDARDS COMMITTEE – 27TH JUNE 2006

COMPOSITION OF HEARING PANEL FOR DETERMINATION OF ALLEGATIONS OF MEMBER MISCONDUCT

Report of the: Monitoring Officer

This report supports the Key Aim of accountability in respect of ethical standards.

Portfolio Holder Cllr. Loney

Head of Service Head of Legal and Committee Services – Mrs. Christine Nuttall

Recommendation: It be RESOLVED that the composition of a fair and unbiased determination hearing panel be discussed and one of the options set out in the report be approved.

Background

- 1 All members of the Standards Committee may take part in a determination hearing if they choose. However, the Standards Board for England recommends that a small number of members three or five take part in the determination as it is fairer and more efficient to hold a hearing before a small group.
- 2 When it is determining a case, the Standards Committee should be recognised as truly fair and politically unbiased, so that members of the public and members of the authority have confidence in its procedures and findings.
- 3 To encourage confidence and remove any perception of political interference, the Standards Board recommends that one of the independent members of the Standards Committee chairs the hearing.

The Hearing Panel

- 4 The Committee is asked to consider the makeup of the hearing panel taking into account the matters set out above.
- 5 Suggested various options are as follows.
 - Option 1 The hearing panel shall comprise the Standards Committee.
 - Option 2 The hearing panel shall comprise members of the Standards Committee chosen by the Independent Chair of the Standards Committee.

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- Option 3 The hearing panel shall comprise three members in total being two Independent members and one Parish Council member. If the matter being determined is not a parish council matter then an Independent member can take the place of the Parish Council member. Preferably, if appropriate, such members will be chosen on a rotational basis.
- Option 4 The hearing panel shall comprise three members in total, being one independent member, one Parish Council member and one District Council member. Preferably such members will be chosen on a rotational basis.
- Option 5 The hearing panel shall comprise five members in total with a minimum of two Independent members, one Parish Council member and two elected members. Preferably such members will be chosen on a rotational basis.

In all the above options an Independent member of the Standards Committee would chair the Determination Hearing. Preferably such Independent member would be chosen on a rotational basis.

Conclusions

- 6 Options 4 and 5 would allow a District Council member to be judged by a hearing panel that includes District Council member(s). It should be borne in mind that the rules do allow Parish Council members to be judged by a hearing panel that includes a Parish Council member. Option 4 is the easiest and most straight forward to achieve bearing in mind that it may be difficult to muster a quorate hearing panel within the fixed time period required.

Legal Implications.

- 7 It is important to abide by the Standard Board for England's recommendations and to have a hearing panel that is constituted in a way that will avoid any allegation of bias or unfairness.

Sources of Information: Advice and Guidance from the Standards Board for England.

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RISK ASSESSMENT STATEMENT

An approved determination panel that is fairly constituted will protect the District Council from legal challenge.