



Report of the Monitoring Officer

Standards Committee – 18 February 2021

Standards Committee – Hearings Procedure

Purpose: To approve arrangements to hear and determine any referrals from the Public Service Ombudsman for Wales (PSOW) in relation to a complaint about breach of the Code of Conduct by a Member.

Policy Framework: Local Government Act 2000
Local Government Investigations (Functions of Monitoring Officer and Standards Committee) (Wales) Regs 2001

Recommendation: It is recommended that:

- 1) Standards Committee approves the Hearing Procedure attached at Appendix 1.

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1. Background

- 1.1 The Public Service Ombudsman for Wales (PSOW) may investigate any alleged breach of the Code of Conduct by a member or co-opted member under s 69 Local Government Act 2000 (the Act).
- 1.2 The PSOW has wide discretion as to whether to begin or continue an investigation based on a 2 stage test. The authority to make a determination of a breach rests solely with the Standards Committee or Adjudication Panel of Wales (for more serious complaints).
- 1.3 The Terms of Reference of the Standards Committee are set out in the Constitution and includes “consideration of allegations of breaches of the Code of Conduct against members.”

- 1.4 Section 70(4) of the Act provides that where the PSOW ceases an investigation before it is completed, he/she may refer the matter, the subject of the investigation, to the Monitoring Officer.
- 1.5 Section 71(2) of the Act provides that where the PSOW decides after investigating that it is appropriate, he/she will produce a report on the outcome of the investigation and send it to the Monitoring Officer. The Monitoring Officer will then consider the report and make recommendation to the Standards Committee.

2. Standards Committee

- 2.1 The powers and duties of the Monitoring Officer and the Standards Committee and the procedure to be followed in dealing with a referral from the PSOW are set out in the Local Government Investigations (Functions of Monitoring Officers and Standards Committee)(Wales) Regulations 2001.
- 2.2 Upon receipt of any investigation report under section 70(4) or s 71(2) of the Act the Standards Committee will make an initial determination either that:
 - (a) there is no evidence of a failure to comply with the Code of Conduct;
 - or
 - (b) the member should be given the opportunity to make representations either orally or in writing.
- 2.3 Where the member is given the opportunity to make representations the Standards Committee will convene a Hearing where it will determine either that:
 - (a) there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
 - (b) the member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of the breach;
 - (c) the member has failed to comply with the Code of Conduct and should be censured;
 - (d) the member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted member of his/her authority for a period not exceeding six months.
- 2.4 After making its decision the Standards Committee is required to give notice of its determination to the member subject to the investigation, any person who made any allegation giving rise to the investigation and to the PSOW, giving reasons for the determination.
- 2.5 Where the Standards Committee determines that the member is in breach of the Code of Conduct the member may appeal the decision to the Adjudication Panel for Wales by giving 21 days notice in writing from

the date of receipt of the decision. The Adjudication Panel for Wales may either uphold the Committee's decision, recommend a different sanction to the Committee for reconsideration or overturn the Committee's decision.

3. Procedure at Hearing

- 3.1 In 2011 a Standards sub-committee was established to consider and determine a PSOW Investigation Report. That sub-committee comprised 2 lay members and 2 councillors.
- 3.2 The Monitoring Officer cannot locate a copy of the procedure that was adopted on that occasion. In any event it is the Monitoring Officer's view that consideration should be given to identifying a procedure which is up to date and fit for purpose and includes updated guidance from both the PSOW and the Adjudication Panel Wales.
- 3.3 Whilst the above Regulations make certain provisions for the procedure to be followed it is for the Standard Committee to determine how it exercises its functions under the Regulations. Of paramount importance is to ensure not only compliance with the Regulations but also the principle of natural justice to ensure that the hearing is fair and allows an adequate opportunity for each party to present their case.
- 3.4 Attached at appendix 1 is a draft Procedure for Hearing which the Committee is asked to consider and approve.

4. Legal Implications

- 4.1 The legal implications have already been set out in the body of the report.

5. Financial Implications

- 5.1 There are no financial implications associated with this report.

6. Equality and Engagement Implications

- 6.1 There are no equality and engagement implications associated with this report.

Background papers: EIA Screening Form

Appendices: Appendix 1 – Draft Procedure for Hearing