

## Agenda Item 2

**For general release**

**Meeting: Standards Hearing Panel**

**Date: 5 December 2007**

**Report of: Director of Strategy and Governance**

**Subject: Procedure for Consideration of Investigator's reports**

**Ward(s) affected: All**

### **1. Purpose of the Report**

- 1.1 This report advises the Hearing Panel of the procedure to be adopted in relation to an investigation report where the Investigating officer has found that there has been no breach of the Council's Code of Conduct for Members (the Code). One such report appears on the confidential agenda for this meeting.

### **2. Recommendations**

- 2.1 That the Hearing Panel notes and adopts this report and proceeds to consider whether it accepts the finding of the Investigating Officer that there has been no failure to comply with the Code.

### **3. Information / Background**

- 3.1 This Hearing Panel has been convened in accordance with the relevant regulations and the Council's "Procedure for Local Investigation of Allegations of Member Misconduct" to consider the final report of the Investigating Officer.
- 3.2 In relation to any report, the Hearing Panel has two alternatives. It must find:-
  - (1) either that it accepts the Investigating Officer's finding that the Member has not failed to comply with the Code of Conduct for Members as set out in the allegation,
  - (2) or that the matter should be considered at a hearing of the Hearing Panel, conducted in accordance with the authority's adopted Procedure for Local Determination Hearings.

- 3.3 The guidance from the Standards Board for England advises that the Hearing Panel should simply consider the Investigating Officer's report. It should not seek to interview witnesses or take representations from parties. Its role at this stage is to decide whether, based on the facts set out in the report, it agrees with the findings or believes there is a case to answer.
- 3.4 Because the Hearing Panel is not conducting a hearing with the parties and witnesses but is simply making a finding on the report, it is recommended that Panel should do this in confidential session as it is entitled to do under ground 7C ("the deliberations of a standards committee or of a sub-committee....in reaching any finding on a matter referred under [the relevant legislation])".
- 3.5 It is also recommended that the Investigating Officer's report should remain confidential under ground 1 ("information relating to any individual") while the Hearing Panel decides whether or not to accept the Investigating Officer's conclusion that there has been no breach of the Code. This is because it is still possible for the Investigating Officer's report to be referred on by the Panel for a full hearing and, if that were to happen, the public interest would be better served by retaining confidentiality and avoiding comment and speculation on the report before the full hearing takes place. When the Hearing Panel reaches its decisions, it is recommended that confidentiality of each report be dealt with as follows, depending on the decision reached:-
- (1) If the Hearing Panel agrees with the Investigating Officer, the Panel will also agree that the finding is recorded and announced openly. The Panel must also record its reasons for reaching the decision and it is for the Panel to decide how much of this is put into the open record and whether the investigator's report becomes open. It should be noted that the Monitoring Officer has to notify the Member, the complainant, the Ethical Standards Officer who referred the matter to him and the Standards Committee of the finding and the reasons for it. The Monitoring Officer also has to publish, in at least one local newspaper, a notice that there has been no failure to comply with the Code of Conduct, unless the Member objects. In the past, the Panel has only recorded the decision openly and kept the reasons and the report confidential.
  - (2) If the Hearing Panel disagrees with the Investigating Officer, the report will remain confidential and will be referred on to a

full hearing. It will be for the subsequent Hearing Panel, at the start of that hearing, to decide if all or any of the report should remain confidential.

- 3.6 The agenda for the meeting of the Hearing Panel has been drawn up on the basis set out above. The Hearing Panel must make one or other of the decisions mentioned in paragraph 3.2, but otherwise has discretion as to how it conducts its proceedings, taking into account the guidance from the Standards Board for England and other advice mentioned above.

## APPENDIX 1

<b>Meeting/Date</b>	Standards Hearing Panel 14 <sup>th</sup> December 2007
<b>Report of</b>	Director of Strategy and Governance
<b>Subject</b>	Procedure for Consideration of Investigator's Report(s)
<b>Wards affected</b>	None directly

### **Financial implications**

There are no financial implications to be drawn to the Panel's attention in connection with this report.

*Officer consulted*

*Date*

### **Legal implications**

Advice on the procedure to be adopted by Hearing Panels is contained in the body of this report.

*Officer consulted: Dianne Bates*

*Date 19/11/07*

### **Corporate/Citywide implications**

There are no specific Corporate or Citywide implications.

### **Risk assessment**

No risk assessment has been carried out.

### **Sustainability implications**

There are no direct sustainability implications.

### **Equalities implications**

There are no direct equalities implications.

### **Implications for the prevention of crime and disorder**

There are no direct crime and disorder implications.

### **Background papers**

No unpublished background papers have been relied upon to a material extent in the writing of this report.

### **Contact Officer**

Dianne Bates. Senior Lawyer 29-1513

