

PART A

2 AMENDMENTS TO THE LOCAL DETERMINATION OF COMPLAINTS PROCEDURE (A.1118/EWJ)

Proposal

1. To agree amendments to the Local Determination of Complaints procedure.

2. RECOMMENDATION:

That the Local Determination of Complaints procedure be amended as set out in paragraphs 7 and 8 of the report.

Policy/Legal Background

3. The procedure for the local determination of complaints against a Member was agreed by the Committee on 27 September 2004.
4. The procedure contains guidance on the penalties that can be imposed by the Standards Committee. This guidance was based on the regulations in force at that time.
5. It was considered by the Government that the options available to Standards Committees were too restrictive particularly as the policy was to move to a more locally based regime for investigation and determination. Amending regulations were issued which widened the scope of the sanction available.

Key Issues

6. The amendments required to the Procedure is a straightforward substitution of the first part of the "Guidance on penalties for breach of the Code of Conduct" as follows:

7. Paragraphs to be deleted

If the Standards Committee finds that a Member has failed to follow the Code of Conduct and that he or she should be penalised it may, do any one or a combination of the following:

- censure the Member. This is the only form of penalty available when dealing with a person who is no longer a Member of the Authority;
- restrict the Member's access to the resources of the Authority for up to three months, which could include limiting his or her access to the premises of the Authority; and where a Member is suspended or partially suspended, the part of either Basic or Special responsibility allowances payable may be withheld by the Authority with the approval of the Resources Committee.

- suspend or partly suspend the Member for up to three months; or
- suspend or partly suspend the Member for up to three months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training, or takes part in any conciliation that the Standards Committee orders them to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee.

8. Paragraphs to be inserted

If the Standards Committee finds that a Member has failed to follow the Code of Conduct and that he or she should be penalised it may, under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, Regulation 7, as amended, do any one or a combination of the following:

- censure the Member; This is the only form of penalty available when dealing with a person who is no longer a Member of the Authority;
- restriction for a maximum period of three months of the Member's access to the premises of the Authority and the Member's use of the resources of the Authority, provided that such restrictions imposed upon the Member –
 - are reasonable and proportionate to the nature of the breach; and
 - do not unreasonably restrict the Member's ability to perform his/her functions and duties as a Member.
- suspension or partial suspension of the Member for a period up to a maximum of three months;
- a requirement that the Member submit a written apology in a form specified by the Standards Committee;
- a requirement that the Member undergo training as specified by the Standards Committee;
- a requirement that the Member undergo conciliation as specified by the Standards Committee;
- suspension or partial suspension of the Member for a period up to a maximum of three months or until such time as he/she submits a written apology in a form specified by the Standards Committee;
- suspension or partial suspension of the Member for a period up to a maximum of three months or until such time as he/she undergoes such training or conciliation as the Standards Committee may specify;

Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee. Where a Member is suspended or partially suspended part of either the Basic or Special Responsibility allowances payable may be withheld by the Authority with the approval of the Services Committee.

APPENDIX

Background

1. No further background information necessary.

Resources

2. There are no additional resource implications arising out of the report.

Risk Management

3. There are no risks arising out of the proposals in the report

Human Rights, Equalities, Health & Safety

4. There are no such issues arising out of the report.

Consultees

- 5.. None necessary

Enclosures

6. None.

List of Background Papers (not previously published)

7. None

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- 9.. 13 June 2006