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**Report of the Assistant Chief Executive (Corporate Governance)**

**Standards Committee**

**Date: 16<sup>th</sup> December 2008**

**Subject: The Circumstances under which the Adjudication Panel would consider accepting a reference from a Standards Committee**

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**Electoral Wards Affected:**

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**Executive Summary**

1. The purpose of this report is to inform Members of the Standards Committee of the guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008.
2. Members are asked to note the contents of the report, and the guidance from the Adjudication Panel which is attached at Appendix 1 to this report.

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to inform Members of the Standards Committee of the guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008.

## **2.0 Background Information**

- 2.1 As Members will be aware, recent changes were made to the legislation that deals with allegations about the conduct of councillors, making local authority standards committees responsible for receiving complaints about member conduct and deciding what to do with them. Members will recall that, at its meeting held on 1<sup>st</sup> July 2008, the Standards Committee agreed to appoint an Assessment Sub-Committee to undertake these responsibilities.
- 2.2 One option available to the Assessment Sub-Committee after considering an investigating officer's report is to refer the matter to the Adjudication Panel for England for determination by a tribunal. The President of the Adjudication Panel has issued guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a standards committee. A copy of the guidance was circulated to Members by e-mail on 20<sup>th</sup> November 2008, and is also attached at Appendix 1 to this report.

## **3.0 Main Issues**

- 3.1 Before a referral can be made, the Assessment Sub-Committee would need to determine that the action which the Assessment Sub-Committee itself could take would be insufficient (the maximum sanction that the Assessment Sub-Committee could impose would be a suspension for a period of six months). The possibility of such a reference would only arise after the Monitoring Officer had produced a report for the Assessment Sub-Committee. The President of the Adjudication Panel is willing to indicate, prior to the consideration of the report by the Assessment Sub-Committee, whether he would agree to accept such a referral (although this wouldn't commit the Assessment Sub-Committee to making the referral).
- 3.2 According to the guidance, it would be rare for the Adjudication Panel's Case Tribunals to impose a suspension for longer than six months, as this may be seen as leading to constituents being left without effective representation. Less rarely, a Case Tribunal will disqualify an elected member, which would preclude the member concerned from being appointed to **any** relevant authority. Guidance has already been published as to when disqualification is likely to be an appropriate sanction, an extract from which can be found within the guidance attached at Appendix 1.
- 3.3 Members should be aware that the decision on whether to refer will be made on the hypothetical basis of a finding that there has been a breach of the Code of Conduct. In deciding whether to accept a proposed reference, the President or Deputy President of the Adjudication Panel would not usually seek to form a view as to how likely it is that such a finding would be made. The information that should be included within a reference can be found within the guidance attached at Appendix 1.

## **4.0 Implications For Council Policy And Governance**

- 4.1 The guidance will be included as part of the Assessment Sub-Committee guidance notes, and will help to ensure that the decisions as to whether to refer a case to the Adjudication Panel are made in a fair and consistent manner.

## **5.0 Legal And Resource Implications**

- 5.1 There are no legal or resources implications to the information in this report.

## **6.0 Conclusions**

- 6.1 This report informs Members of the Standards Committee of the guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008, which is attached at Appendix 1.

## **7.0 Recommendations**

- 7.1 Members are requested to note the contents of the report, and the guidance from the Adjudication Panel attached at Appendix 1 to this report.

## **8.0 Background Documents**

- 8.1 'Guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008' – Adjudication Panel for England.