

Report of the Monitoring Officer

Revised Hearing Procedures

Summary

1. This report seeks Members' approval to new procedures for hearings in respect of Standards cases.

Background

2. Earlier this year the Committee handled its first hearing under the local standards arrangements which came into effect in 2012. The hearing operated using a slightly modified version of the procedures previously used for statutory hearings. The Committee took the opportunity at its last meeting to reflect on the experience of that hearing and these revised procedures are now being presented in response to the debate at that meeting.
3. The proposed procedures strengthen the pre hearing arrangements and these are set out in Annex A to the report. Importantly the procedures require the complainant and subject member to clearly identify the issues which are in dispute. They do so by completing the checklist at Annex B. If a party subsequently seeks to contest a factual issue which has not been identified at the pre-hearing stage then the Committee may decide not allow the matter to be disputed.
4. The parties are also asked to indicate whether they feel that any part of the hearing should be in private. Any representations on this point will be considered by the Monitoring Officer and Chair of the Hearing Panel. The procedures make it clear that the usual position will be that hearings will be in public. Agendas including public reports will therefore normally be published before the hearing.
5. The hearing procedure itself (which appears at Annex C) is drafted on the basis that the Panel will adopt an inquisitorial approach. This is more akin to the approach taken in Coroner's courts than the

usual adversarial approach adopted by other courts. During the pre hearing phase the parties (including the investigating officer) will be able to identify witnesses who they believe can provide helpful evidence. The procedure envisages though that the witnesses will be called by the Panel and the prime responsibility for questioning them will lie with the Panel.

6. While not seeking to prevent parties being represented at a hearing the procedure seeks to provide reassurance that such representation is not necessary.
7. The procedure reflects the legal requirements to consult the independent persons before making decisions in respect of allegations. It is envisaged that advice will be given by the independent persons in private but the substance will be shared when the decision is announced.

Alternative options

8. The Committee is free to adopt any procedure for hearings that it wishes so long as the procedure is consistent with Human Rights Act and other public law obligations. In considering the options Members may wish to discuss particularly:
 - Whether the inquisitorial model is the right one
 - Whether the procedure should attempt to give reassurance that representation is unlikely to be necessary

Recommendations

9. Members are recommended to:
 - 1) Approve the pre hearing and hearing procedures set out in the annexes to the report subject to such amendments as the Committee consider to be appropriate.

Reason: To ensure that the Committee has published processes which allow for the fair and efficient handling of hearings.

Contact Details

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**Report
Approved**

Date 12/08/14

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex One – Pre hearing procedures

Annex Two – Pre hearing checklist

Annex Three – Hearing Procedures