

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Executive Director - Strategy and Governance (Monitoring Officer)

To: South Holland District Council – Wednesday, 27 February 2019

(Author: Mark Stinson Executive Manager - Governance)

Subject Standards Arrangements

Purpose: To consider an amendment to the Standards Arrangements

Recommendation(s):

- 1) That the Monitoring Officer and/or the Deputy Monitoring Officer be authorised to delegate to any other local authority final determination of complaints made under the Council's Standards Arrangements, subject to consultation with the Chairman of the Council's Standards Panel, and subject to the officer being satisfied that this is in the interests of fairness;
- 2) That the Monitoring Officer and/or the Deputy Monitoring Officer be authorised to accept similar delegations to South Holland District Council from other local authorities, subject to consultation with the Chairman of the Standards Panel;
- 3) That the Standards Arrangements be amended in accordance with paragraph 1.4 below; and
- 4) That the Constitution be amended accordingly.

1.0 BACKGROUND

- 1.1 The Localism Act 2011 contains the current legislative arrangements for elected Member standards of conduct. The Council has a duty under Sections 27 and 28 of the Localism Act 2011 to promote and maintain high standards of conduct by elected and co-opted members when acting in that capacity; to adopt a Code of Conduct which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership; to have arrangements in place for the investigation of allegations and for the making of decisions on allegations. How this is achieved now involves a much greater degree of local choice than was available under the previous regime. The Council's current arrangements were reviewed and updated in November 2017.
- 1.2 It is vitally important that the Standards Arrangements are fair and are seen to be fair. In the vast majority of cases, the existing arrangements are very robust. There may, however, be particular circumstances where additional safeguards are required. One example is where a formal or informal political group discipline process may have been followed in order to seek to resolve a complaint. If this group process does not result in resolution of the issue, it may be argued that members involved in that process could find it difficult to hear a subsequent Standards case in a fully impartial manner.
- 1.3 In order to ensure that such circumstances do not undermine the Council's ability to determine cases fairly, Council is asked to authorise the Monitoring Officer and/or the Deputy Monitoring to delegate final determination of complaints to another local authority.

This will always be subject to consultation with the Chairman of this Council's Standards Panel and will only be exercised where the officer considers that the interests of fairness are served by the delegation. All other stages of the process will remain with this authority (initial investigation and assessment, potential for local settlement, detailed investigation and assessment; consultation with the Independent Person, etc.)

- 1.4 It is suggested that such arrangements should be reciprocal and that the Monitoring Officer and/or Deputy Monitoring Officer be authorised to accept similar delegations to South Holland District Council, again subject to consultation with the Chairman of the Standards Panel.
- 1.5 The following addition to page 6 of the Council's Standards Arrangements is proposed, at the end of the section entitled "At the end of the investigation"

Where a complaint proceeds to a formal hearing, the Monitoring Officer and/or the Deputy Monitoring Officer may arrange for such hearing to be conducted by another local authority where this is considered, in all the circumstances, to be in the interests of fairness. The Monitoring Officer or Deputy Monitoring Officer will always consult with the Chairman of the Council's Standards Panel before making such arrangements.

Similarly, the Monitoring Officer and Deputy Monitoring Officer may agree to South Holland District Council's Hearing's Panel making final determinations on complaints against a member of another local authority. The Monitoring Officer or Deputy Monitoring Officer will always consult with the Chairman of the Council's Standards Panel before agreeing to such arrangements.

2.0 **OPTIONS**

- 2.1 The Council could consider other options – such as co-opting others onto the SHDC Hearings Panel (though they would not have voting rights) or extending the role of the Independent Person. These options are not, however, considered to afford the same degree independence.
- 2.2 The Council could leave the Arrangements unchanged.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 To enable the Monitoring Officer and the Deputy Monitoring Officer sufficient flexibility to ensure that any Standards complaint can be determined fairly.

4.0 **EXPECTED BENEFITS**

- 4.1 A process that is fair and is seen to be fair.

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be

implications under one or more of these headings, these are identified below.

5.1 **Constitutional & Legal**

5.1.1 The Council has statutory power to delegate its functions to another local authority pursuant to s101 of the Local Government Act 1972. That local authority will then have full authority to determine the matter in accordance with its own arrangements (i.e. through its own Hearings Committee, Sub-Committee, Panel, etc.)

5.2 **Equality and Diversity / Human Rights**

5.2.1 The proposal is in keeping with the rules of natural justice and Article 6 of the European Convention on Human Rights (right to a fair trial).

5.3 **Financial**

5.3.1 The Council may be responsible for reimbursing the reasonable costs of such authority to which the delegation is made (cost of meeting, travel expenses, room hire, etc.)

5.4 **Risk Management**

5.4.1 Ensuring robust and fair processes minimises the risk of subsequent legal challenge.

6.0 **ACRONYMS**

6.1 SHDC – South Holland District Council

Background papers:-	None
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Lead Contact Officer

Name and Post: Mark Stinson Executive Manager - Governance

Telephone Number

Email: mark.stinson@breckland-sholland.gov.uk

Key Decision: N

Exempt Decision: N

This report refers to a Mandatory Service