

Standards Committee

AGENDA STATUS:PUBLIC

Report Title	LOCAL DETERMINATION –ALLEGED FAILURE TO FOLLOW THE CODE OF CONDUCT
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Date of Meeting:	20 February 2008
Directorate:	Legal and Democratic Services
Ward(s)	St James

1. Summary

The Monitoring Officer appointed Mr Simon Aley, Solicitor, Head of Legal Services at Corby Borough Council to investigate an allegation that former Councillor Terry Wire had acted in breach of Northampton Borough Council's Code of Conduct. The finding of the Investigating Officer is that the matters which were subject to investigation should be referred for hearing by the Standards Committee in accordance with Regulation 5 (7) (d) of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended). The Committee has a legal duty to determine this matter under Regulation 6(2) (b) (ii) of the 2003 Regulations (as amended)

2. Recommendations

2.1 That the Committee consider the Report and the findings and make a decision pursuant to the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended) in relation to the alleged breaches of the Code of Conduct by former Councillor Wire as set out at paragraphs 4-9 of the Report

3. Report Background

- 3.1 Pursuant to Section 66 of the Local Government Act 2000 and associated Regulations, the Standards Board for England is able to refer allegations of failure to comply with the Council's Code of Conduct back to the Council for local investigation.
- 3.2 An allegation against former Councillor Wire was referred back to the Monitoring Officer of Northampton Borough Council for local investigation. Section 82A of the Local Government and Housing Act 1989 provides that the Monitoring Officer may nominate a person to carry out an investigation, where the Monitoring Officer considers that in a particular case he himself ought not to be involved in an investigation(eg for reasons of conflict of interest, having already advised in the matter which is the subject of the allegations). The nominated investigator was Mr Simon Aley , Head of Legal Services at Corby Borough Council.
- 3.3 The framework for these investigations is set by the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003,as amended by the 2004 Regulations, issued by

the Standards Board for England. The Committee must have regard to that Guidance when carrying out its function.

3.4 The Regulations require that:

“5(7) Where a monitoring officer of a authority conducts an investigation he shall, following such an investigation:

- (a) make one of the following findings:
 - (i) that he considers that there has been a failure to comply with the code of conduct of the authority (“a finding of failure”)
 - (ii) that he considers that there has not been a failure to comply with the code of conduct (“a finding of no failure”)
- (b) prepare a written report concerning his investigation and his findings;
- (c) send a copy of that report to the member who was the subject of the investigation
- (d) where the report concerns a finding of failure, refer that report to the standards committee of the authority for a hearing under the provisions of the Regulations.
- (e) where the report concerns a finding of no failure ,refer that report to the Standards Committee of the authority.

3.5 The relevant Code of Conduct in connection with the local determination hearing is the Council’s Code of Conduct 2001. The final report of Mr Aley concluded that there had been a technical breach of the Code of Conduct in that former Councillor Wire failed to declare a personal interest at the start of the Planning Committee meeting on 14 February 2007.

3.6 Following the issue of the final report, a pre-hearing process has been initiated and a letter sent to former Councillor Wire to determine whether

- There was any disagreement with any of the findings of fact in the Investigating Officer’s Report and if so, to respond accordingly;
- The former Councillor wished to be represented at the hearing by a solicitor, barrister, or any other person;
- The former Councillor wished to give evidence to the Standards Committee whether verbally or in writing;
- The former Councillor wished to call relevant witnesses to give evidence to the Standards Committee;
- The former Councillor wished any part of the hearing to be held in private;
- The former Councillor wished any part of the Investigating officer’s report or other relevant documents to be withheld from the public.

3.7 In considering all information submitted the Local Determination Panel is required to determine whether the following apply:

- (a) the member has not failed to follow the code of conduct
- (b) the member has failed to follow the code of conduct
- (c) action consequent upon a failure to comply with the code of conduct.

3.8 As required copies of the final report have been sent to former Councillor Wire ,the complainant and the relevant Standards Board for England Ethical Standards Officer. As the final report of Mr Aley and supporting documents are likely to disclose exempt information under Paragraph 16 of schedule 12 A of the Local Government Act 1972 (information relating to the personal circumstances of any person), copies of these background documents shall not be provided to the public and press in advance of the

hearing, nor permit any inspection in advance thereof. Attached as Appendix 1 is the Standards Committee procedures for carrying out Local Determination Hearings.

4. Implications (including financial implications)

4.1 Resources and Risk

There are no direct financial implications arising from this report.

4.2 Legal

The deliberations of a Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60 (2) or (3) of the 2000 Act is exempt information under Paragraph 19 of the provisions of Schedule 12 A of the Local Government Act 1972. There are no further legal implications identified as arising directly out of this report beyond those already stated in the body of the report itself, other than the importance of compliance with obligations under the Local Government Act 2000 and associated Statutory Instruments

4.3 Other Implications

The presumption is that local determination hearings should be made in public, reflecting the requirements of Article 6 under the Human Rights Act 1998, and only in private where permitted by the provisions permitted in the 2003 Regulations. The Regulations incorporate Schedule 12A of the Local Government Act 1972 for Standards Committees with additional provisions for exempting the public and press concerning hearings. (See Legal Implications section)

5. Background Papers

1. Final Report of Mr Simon Aley

2. Bundle of supporting documents

(Both documents exempt information under paragraph 16 of Schedule 12A of the Local Government Act 1972)

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