
REVIEW OF THE STANDARDS APPEALS PROCESS

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1. Purpose

- 1.1 This report recommends that a review of the Standards Appeal process be carried out by the Standards Committee.

2. Recommendations

- 2.1 That the Committee agrees to carry out a review of the Standards Appeal process and agrees to Terms of Reference for the review.
- 2.2 That, the Committee appoint a Member Working Group of three MKC Councillors and one Parish Representative to undertake the review.

3. Background, Current Position and Considerations

- 3.1 Milton Keynes Council (MKC) is responsible for dealing with standards complaints brought against both MKC Councillors and all the Parish and Town Councillors in the Milton Keynes area.
- 3.2 Standards complaints are complaints alleging that a Councillor has breached the Member Code of Conduct applicable to a Councillor from that Council.
- 3.3 The arrangements under which standards complaints are processed are set out in the 'Arrangements for dealing with Standards Allegations under the Localism Act 2011' (the Arrangements) which can be found on the Council's website on the pages relating to complaints against Members.
- 3.4 Under the Arrangements (at paragraph 11) there is set out the right of Appeal for either the Complainant or the (Subject) Councillor against whom the complaint is made.

Current Appeal Process

- 3.5 The Arrangements are not set out in detail but there are a number of key points which are set out as to the current appeal process:

- (a) the right of appeal only applies following the decision of a Hearing Sub-Committee and after an Investigation has taken place (e.g. it does not apply at an early stage when, for example, a complaint is rejected;
- (b) an appeal must be set out in writing within 10 days of issue of the written decision notice;
- (c) there are two grounds of appeal, (a) that the procedure was wrongly applied, or (b) new evidence has come to light;
- (d) the Sub-Committee convened to hear the appeal must be politically balanced (where possible) and the Councillors on the Sub-Committee must not have been involved in the original Sub-committee hearing the complaint;
- (e) a different Independent Person will be asked to give their views;
- (f) depending on the subject matter it may be appropriate to conduct the matter on the papers only; and
- (g) there is no further right of appeal to the Council in the process.

3.6 The Arrangements therefore set out the criteria involved in the appeal but it is fair to say that they do not set out a detailed procedure for how the Sub-Committee should deal with an appeal. In the one appeal that there has been under the Arrangements the (Appeal) Sub-Committee followed the same process as it would do for a Hearing Sub-Committee.

Considerations for a Proposed Review

3.7 The first consideration for a review is whether to have an internal Council appeal process at all. The evidence suggests most councils do not have an appeal process for standards matters.

3.8 There may be a number of reasons why councils decided not to adopt an appeal process but two reasons would be that an appeal process adds time to the process and also cost, as recent experience has shown. Any commissioned external Investigator would usually need to attend an appeal hearing at additional cost.

3.9 In a sample of neighbouring councils Central Bedfordshire, Bedford Borough, Northamptonshire and Cambridgeshire had no appeal process for standards matters. Of neighbouring councils only Luton had an appeal process.

3.10 In its recent report on Local Government Ethical Standards the Committee for Standards in Public Life have recommended that there be a right of appeal for a Councillor (but not a Complainant) to the Local Government Ombudsman however additional powers would need to be given to the Ombudsman's office to put this in place.

