

<i>COMMITTEE</i>	<b>STANDARDS COMMITTEE</b>
<i>DATE</i>	<b>22 APRIL 2004</b>
<i>TITLE OF REPORT</i>	<b>CONSULTATION ON DRAFT REGULATIONS AND GUIDANCE ON LOCAL DETERMINATION/ INVESTIGATION OF COMPLAINTS AGAINST MEMBERS</b>
<i>RESPONSIBLE OFFICER</i>	<b>Mark Bowen, assistant director, legal and contract services</b>

**1 PURPOSE OF THE REPORT**

- 1.1 To agree a response to the consultation document issued by the Office of the Deputy Prime Minister (ODPM) and the Standards Board for England dealing with local determination of complaints.

**2 RECOMMENDATION**

- 2.1 That members consider the draft response at Appendix 1 and agree a final response to go to ODPM and the Standards Board for England.

**3 DECISION ISSUES**

- 3.1 Under the constitution it is the role of the Standards Committee to advise on good practice; therefore it is the appropriate body to respond the consultation.

**4 BACKGROUND**

- 4.1 The monitoring officer reported on the consultation documents on local determination and investigation to the Standards Committee on 16 March.

- 4.2 It was agreed that the meeting on 22 April would consider the council's detailed response to the consultation exercise and a draft response is attached at Appendix 1 to assist members.

- 4.3 The key points in the regulations are as follows:

- 4.3.1 Regulation 4 makes it clear that the definition of the monitoring officer includes any person nominated by the monitoring officer as their deputy or to carry out any of their functions.

- 4.3.2 Regulation 5 allows for the disclosure of information obtained by an ethical standards officer during the course of their duties to enable the monitoring officer to carry out his/her functions in connection with an investigation and similarly to enable a Standards Committee to perform its functions

4.3.3 Regulation 6 places a duty on the monitoring officer to send a copy of any report received from the ethical standards officer to a member who is the subject of that report and other relevant individuals. The regulation also allows the monitoring officer to call upon such advice and assistance as they may reasonably require to assist in the investigation, to require the council to meet the cost of such advice or assistance so far as the cost is reasonable and to require the authority to afford access to documents in the possession of the authority as are necessary for the purpose of conducting the investigation.

4.3.4 There are powers to refer a matter back to an ethical standards officer.

4.3.5 The monitoring officer during the investigation of the matter can make the following findings:

- That there has been a failure to comply with the code of conduct
- That there has not been a failure to comply with the code.

In both cases a written report concerning the investigations and findings is produced and sent to the relevant member of the Standards Committee

4.3.6 Regulation 7 deals with certain procedural aspects around the conduct of a hearing. The key points are that the hearing should be held within three months of referral to the monitoring officer or completion of monitoring officer's report. A member must have at least 14 days notice following the preparation of a report before the meeting is heard.

4.3.7 The new regulation 8 deals with sanctions. The maximum suspension a Standards Committee can impose is for three months. The suspension can be full or partial. The regulation also allows the suspension to be lifted earlier than the end of the three month period if the member carries out a specified action, e.g. sending a written apology or attending training or conciliation specified by the Standards Committee.

There is a need to make interested parties available of the finding of the Standards Committee and for details to be published in a local newspaper circulating in the area.

4.4 The draft Standards Board guidance substantially mirrors the regulations. It provides useful guidance on confidentiality, report production, conflicts of interest around the monitoring officer and the like.

## **5 LEGAL AND FINANCIAL IMPLICATIONS**

5.1 The legal implications are set out in the report and draft responses.

5.2 When the regulations are implemented there will be a potential cost in investigating matters and holding hearings.