

<i>COMMITTEE</i>	STANDARDS COMMITTEE
<i>DATE</i>	TUESDAY, 15 JULY 2003
<i>TITLE OF REPORT</i>	NEW ETHICAL FRAMEWORK REGULATIONS
<i>RESPONSIBLE OFFICER</i>	Mark Bowen, assistant director, legal and contract services

1 THE PURPOSE OF THE REPORT

- 1.1 To advise members of the provisions of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 which deal with the procedures to be followed when an Ethical Standards Officer of the Standards Board for England refers misconduct allegations to a monitoring officer. In addition to deciding upon the appropriate procedure to be followed by the committee in hearing such matters.

2 RECOMMENDATION

- 2.1 That the report on the contents of the Regulations be noted.
- 2.2 To instruct the monitoring officer to bring a procedure for local determination forward to the committee meeting on 24 September for approval

3 DECISION ISSUES

- 3.1 The Constitution gives the Standards Committee the duty to deal with any reports from a case tribunal or interim case tribunal, and any reports from the Monitoring Officer on any matter, which is referred by an Ethical Standards Officer to the Monitoring Officer.

4 BACKGROUND

- 4.1 As members of the committee will be aware, we have been waiting for some time for regulations under Section 66 of the Local Government Act 2000 which will allow for local determination of complaints against councillors.
- 4.2 The Government has now made the first part of those regulations which will enable an Ethical Standards Officer of the Standards Board for England to refer allegations for local determination once the Ethical Standards Officer has completed an investigation of and reported on an allegation.
- 4.3 A further set of regulations will be made later in the year which will enable the Monitoring Officer to investigate allegations and report to the Standards Committee.

- 4.4 At the national conference of the Standards Board for England, the consensus appeared to be that investigations would not be referred to local authorities for determination until the end of September. This is intended to enable local authorities to prepare the necessary procedures to deal with referrals.
- 4.5 The Association of Council Secretaries and Solicitors has a model form of procedure, which is appended to this report.

5 THE CONTENT OF THE REGULATIONS

- 5.1 The regulations contain no great surprises in terms of procedure which authorities will be required to follow in dealing with allegations of failure to comply with the Code of Conduct. The key features are set out below.
- 5.2 The regulations extend the definition of “exempt information” which makes it clear that the Standards Committee can meet in private sessions to determine allegations. However, to ensure public confidence in the process, the presumption will be for meetings in public. The amendments do usefully allow for the press and public to be excluded access to committee papers in advance of the meeting and enable the committee to retire to consider its findings in private session.
- 5.3 The regulations also permit the extension of the permitted grounds of disclosure of information obtained during an investigation or hearing in order to enable the committee to discharge its functions.
- 5.4 The function of the Monitoring Officer is simply to report the Ethical Standards Officer’s report to the Standards Committee without additional investigation. There is no provision for the Standards Committee to call the Ethical Standards Officer in support of that report. However, the committee can ask an Ethical Standards Officer to make an appearance in appropriate cases, for example, where is a substantial dispute of a fact.
- 5.5 The regulations set timescales so that the committee’s hearing can be no less than 14 days after the Monitoring Officer has received a report from the Ethical Standards Officer but no later than three months after that referral.
- 5.6 The Standards Committee is given power to make a determination in the absence of a councillor concerned where it is not satisfied with the councillor’s explanation for their absence.
- 5.7 There are different remedies where a person ceases to be a councillor and where a person remains a councillor.
 - 5.7.1 If a councillor ceases to be a councillor by the date of the committee’s hearing the only sanction is one of censure of their conduct.

5.7.2 Where a councillor is still a councillor the date of the hearing's sanctions can include:

- Censure of the councillor
- Restriction of the councillor's access to council premises and use of council resources for up to three months.
- In considering the sanctions some regard has to be had to the council's ability to perform their functions as a councillor
- Suspension of the councillor for up to three months. This period will not count towards disqualification by reason of failure to attend a meeting of the authority for six months
- Partial suspension as a councillor for up to three months, e.g. suspension from a particular committee
- Suspension or partial suspension for up to three months or until the councillor provides a written apology or undertakes remedial training or conciliation as determined by the Standards Committee.

5.7.3 Any sanction imposed has immediate effect unless the committee determines it shall take effect from a set date within six months of the date of determination.

6 LEGAL AND FINANCIAL IMPLICATIONS

6.1 There are no direct financial implications arising from this report.

6.2 The council must put in place a procedure to deal with referrals from Ethical Standards Officers to ensure compliance with the Local Government Act 2000 and the regulations.