

Meeting: Standards Committee

Date: 7 July 2003

REGULATIONS UNDER SECTION 66 OF LOCAL GOVERNMENT ACT 2000

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1 PURPOSE

To consider The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

2 BACKGROUND

2.1 Introduction

2.1.1 The Government has now made the first part of the "Section 66 Regulations". These will enable the Ethical Standards Officers of the Standards Board for England to refer allegations to the Standards Committee, or a Sub-Committee of the Standards Committee for local determination, once the Ethical Standards officer has completed an investigation of, and report on the allegation.

2.1.2 A further set of Section 66 Regulations will be made later in the year, once the Local Government Bill is in force and which will enable an allegation to be referred down to the Monitoring Officer for him or her to investigate and report back to the Standards Committee.

2.2 The Content of the Regulations

2.2.1 The regulations contain no great surprises in terms of the procedure which authorities will be required to follow in dealing with allegations of failure to comply with the Code of Conduct. Key features include:

2.2.2 Extension of the definition of "exempt information" to make it clear that the Standards Committee can meet in private session to determine allegations. In practice, to ensure public confidence in the process, the Committee should meet in public unless there are over-riding reasons for going into private session, such as the need to protect the privacy of individuals. However, these amendments do usefully allow the Proper Officer to deny press and public access to the Committee papers in advance of the meeting, and enable the Committee to retire in order actually to consider its findings.

2.2.3 Extension of the permitted grounds of disclosure of information obtained during an investigation or hearing, in order to enable a national Appeals Tribunal to discharge its functions

- 2.2.4 There is no provision for the Standards Committee to call the Ethical Standards Officer to give evidence in support of his/her report. The Committee may wish to ask the Standards Board for the Ethical Standards Officer to make such an appearance if there are substantial disputes of fact in a particular case, but there is no automatic right for the Committee to require such attendance.
- 2.2.5 The Committee's hearing must be at least 14 days after the Monitoring Officer has given a copy of the Ethical Standards officer's report to the Councillor concerned, but no later than 3 months after the Monitoring Officer first received the report from the Ethical Standards Officer.
- 2.2.6 The Standards Committee is given a power to make a determination in the absence of the Councillor concerned where it is not satisfied with the Councillor's explanation for his/her absence.
- 2.2.7 Where the Councillor concerned has ceased to be a Councillor by the date of the Committee's hearing, the only sanction which the Committee can impose is one of censure as to his/her conduct.
- 2.2.8 Where the Councillor is still a Councillor at the date of the hearing, the range of sanctions is more varied and includes all or any of the following:
- 2.2.8.1 Censure of the Councillor;
- 2.2.8.2 Restriction of the Councillor's access to Council premises and use of Council resources for up to 3 months, provided that this does not unduly restrict the Councillor's ability to perform his/her functions as a Councillor. This might be appropriate in barring a Councillor from the Council offices where the misconduct were the bullying of officers, or taking away their Council-provided computer where the misconduct were inappropriate use of this facility;
- 2.2.8.3 Partial suspension as a Councillor of the relevant authority for up to 3 months eg suspension from planning Committee; or
- 2.2.8.4 Suspension or partial suspension for up to 3 months or until the Councillor provides a written apology or undertakes remedial training or conciliation as determined by the Standards Committee.
- 2.2.9 Any such sanction takes effect immediately upon the Committee's decision, unless the Committee determines that it shall take effect from a set date within 6 months of the date of the determination.
- 2.2.10 A Councillor can apply to the President of the national Adjudication Panel to be allowed to appeal against a determination of a Standards Committee. The Councillor will have to send in a written notice and the president will decide on the basis of whether the facts as set out in that notice indicate any reasonable prospect of the appeal succeeding. Any appeal will be heard by a tribunal comprising at least 3 members of the Adjudication Panel and may be by way of written representations if the Councillor consents.

A Procedure for dealing with Referred Allegations

- 2.2.11 Ethical Standards Officers will now start to refer allegations to Monitoring Officers and Standards Committees where they consider that the alleged misconduct is of such a nature that, if proven, it would merit a sanction within the powers set out above, rather than the more draconian sanctions available to a national Case Tribunal, of suspension for up to one year or disqualification from any local authority for up to 5 years.
- 2.2.12 It is important for the authority to have determined a procedure which it will apply to any such referred allegations so that, when the first one is received, all parties are clear as to how the matter will be dealt with and when they will have an opportunity to contribute to the process. The Standards Board will be issuing guidance on such procedures shortly, and the Borough Solicitor will recommend a procedure to the Committee once that Guidance has been issued.
- 2.2.13 It is understood that the guidance from the Standards Board will recommend that any such hearings are chaired by an independent member and, pending such guidance, the Committee may wish to resolve to adopt this principle immediately.

3 IMPLICATIONS

None specific.

4 RECOMMENDATIONS

- 4.1 That this report be noted and that the Monitoring Officer report further on a procedure for determining referred complaints once the Standards Board's Guidance has been received.
- 4.2 That the Committee resolves that any hearings of a determination under the Section 66 Regulations, will be chaired by an independent member.

BACKGROUND DOCUMENTS

- The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.