

REPORT FROM THE STANDARDS COMMITTEE

1. LOCAL HANDLING OF COMPLAINTS

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 made under Section 66 of the Local Government Act 2000 came into force on 30 June 2003. They enable an Ethical Standards Officer who has conducted an investigation into a complaint and completed a report on it to refer the report to the Monitoring Officer for consideration by the Standards Committee. The Regulations specify the sanctions which the Committee can impose if they find that the Code of Conduct has been breached.

The Government has announced that further Regulations will be made in the Autumn which will enable the Standards Board directly to refer complaints to the Monitoring Officer for investigation and report to the Standards Committee.

1.1 Hearings

- (1) The first step is for the Ethical Standards Officer to send the report of his investigation into the complaint to the Monitoring Officer.
- (2) The Monitoring Officer copies the report to the member concerned and arranges a hearing by the Standards Committee to consider the report.
- (3) The hearing will normally be held at least 14 days after receipt of the report and must be held within 3 months of receipt.
- (4) At the hearing itself, the member concerned must be allowed to
 - be represented by a barrister, solicitor or (with the Committee's consent) any other person
 - make representations to the Committee orally or in writing
 - present evidence and call witnesses in support of his case. The Committee may place a limit on the number of witnesses if it considers the member's proposed number of witnesses unreasonable.
- (5) The Committee may itself arrange for witnesses to be called.

- (6) If the member fails to attend the hearing the Committee may:
- consider the allegation and reach a decision, unless they are satisfied with the reason for the failure to attend
 - adjourn the hearing.
- (7) Guidance from the Board recommends that a hearing is completed in one sitting, or in consecutive sittings of not more than one day in total.

1.2 Findings

Having conducted the hearing, the Committee may:

- a) find that the member has not failed to comply with the Code of Conduct of the County Council or of any other authority
- b) find that the member has failed to comply, but that no action needs to be taken
- c) find that the member has failed to comply, and that a sanction should be imposed.

1.3 Sanctions

- a) If the person is no longer a member of the Council the Committee can censure them.
- b) If they are still a member, the Committee can impose one or more of the following sanctions
 - (i) Censure
 - (ii) Restriction for up to 3 months on the member's access to premises and/or use of resources, but such restrictions must be reasonable and proportionate and must not unduly restrict the member's ability to perform their functions and duties
 - (iii) Suspension, or partial suspension, for up to 3 months, or until the member apologises in writing or undertakes any specified training or conciliation. 'Suspension' means suspension from office as a Councillor. 'Partial Suspension' means suspension from particular functions or responsibilities.
- c) The Committee must publish a summary of its findings in one or more newspapers.

- d) The Guidance recommends factors to be taken into account in deciding the appropriate sanction.

1.4 Appeals

A member who is the subject of a finding by the Standards Committee may apply to the President of the Adjudication Panel for permission to appeal. The request must be received within 21 days. If the President grants permission, the appeal is heard by an appeals tribunal. The tribunal can uphold or overturn the finding of the Committee; if it upholds it the tribunal can require a different penalty to be imposed.

1.5 Procedure for Hearings by the Committee

The Committee have agreed a detailed procedure for hearings in relation to matters referred by an Ethical Standards Officer, which is based on a model procedure recommended in Guidance from the Standards Board.

2. STANDARDS COMMITTEE RESPONSIBILITIES

The Committee at their last meeting asked the County Secretary to survey a sample of local authorities to see what responsibilities they give their Standards Committees. This report summarises the outcome of that survey.

2.1 Information

Sixteen authorities including Hertfordshire were sampled (nine Counties, two City Councils and five Borough/District Councils) including a number of neighbouring authorities.

Of the sixteen, all Standards Committees of those Councils undertake the seven responsibilities currently vested in the Hertfordshire Standards Committee, namely:-

- Promoting and maintaining high standards of conduct
- Advising the Council on the adoption / revision of the Members' Code of Conduct
- Assisting members to observe the Code
- Monitoring the operation of the Code
- Arranging training for members on the Code
- Granting dispensations from requirements relating to interests
- Dealing with casework referred to them by the Monitoring Officer or the Standards Board Ethical Standards Officer

Seven of the sixteen authorities (including Hertfordshire) give their Standards Committees no additional responsibilities.

Of the remaining nine the following additional responsibilities are bestowed on the appropriate Standards Committees (how these issues are dealt with in Hertfordshire are shown in the square brackets):-

Five recommend and then keep under review the Council's Whistleblowing procedure [Members are kept up to date by Officers]

Three oversee the Council's complaints procedure / Ombudsman cases [Officers deal – regular reports to members]

Two make payments in cases where maladministration is found [Officers in consultation with members]

Two oversee the Code of Standards for Officers [Officers; appeals and disciplinary matters are heard by the Casework Appointments and Appeals Committee].

Two are also the Independent Allowances Panel [separate Independent Panel]

Two oversee the operation of the Council's Constitution [Council]

2.2 Conclusion

The Committee have no wish at the present time to ask the Council to refer additional duties to them. However, they will continue to keep under review what other authorities are doing in this regard.

3. COMPLAINTS TO THE STANDARDS BOARD

The Committee have been informed of the outcome of two complaints to the Standards Board against members of the Council. In both cases the Ethical Standards Officer (ESO) concluded that no action needed to be taken.

The Committee were pleased to note that, since the Code was adopted in February 2002 these are the only cases to reach this stage. They commend members for their observance of the Code and of the Standards Board's guidance on the appropriate use of the complaints procedure.

In one of the cases referred to above the Standards Board and the Ethical Standards Officer made some significant procedural errors in the way the County Council were notified of the complaint, and the County Secretary had drawn this to the attention of the ESO.

The Standards Committee have agreed that I, as Chairman of the Committee, should write to the Chairman of the Standards Board,

making him aware that the Committee have looked at the issue, have endorsed the comments made by the County Secretary in his complaint to the ESO, and expressing the hope that such errors will not occur again.

4. CODE OF CONDUCT

As a general learning point the Committee would remind all members of the Council that the Code of Conduct requires that they must not, in their official capacity, or in any other circumstance, conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

5. FURTHER TRAINING

An additional training session for all members about the Code, the new Regulations, and the Hearings Procedure, will be held on the afternoon of Tuesday 30 March 2004 (County Council day).

PHILIP AYLETT

Chairman

Standards Committee

26 September 2003