



ISLINGTON

Law and Public Services
Town Hall, Upper Street, London N1 2UD

Report of : The Monitoring Officer

Meeting of	Date	Agenda Item	Ward(s)
Standards	23rd June 2003	9(a)	

Delete as appropriate		Non-exempt
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Subject: DETERMINATION OF STANDARDS ALLEGATIONS BY THE STANDARDS COMMITTEE

1. Synopsis

The Government has now made the first part of the Section 66 Regulations which 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 into and report on the allegation. 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 before investigation of the allegation, so that the Monitoring Officer will then secure the investigation of the allegation and report to the Standards Committee, or Sub-Committee.

2. Referrals to Standard Committees

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:

(a) The function of the Monitoring Officer is simply to report the Ethical Standards Officer's report to the Standards Committee, without additional investigation. However, the Committee may wish to ask the Monitoring Officer to provide additional evidence if they are unable to come to a decision on the basis of the Ethical Standards Officer's report and the Councillor's response thereto.

(b) 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.

(c) 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.

(d) The definition of "exempt information" has been extended to include information about the personal circumstances of any person so in most cases the Standards Committee should be able to meet in private session to determine allegations. In practice, the categories of exemption are permissive and, bearing in mind the requirement contained in Article 6 of the European Convention on Human Rights that generally speaking hearings should be open and also 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.

(e) 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.

3. Sanctions Available to the Standards Committee

(f) 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.

(g) 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:

- (i) censure of the Councillor;
- (ii) 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;
- (iii) Suspension as a Councillor of the relevant authority for up to 3 months. Note that this period does not count towards any disqualification by reason of failure to attend a meeting of the authority for 6 months; alternatively, the suspension could be for a lesser period until the Councillor provides a written apology or undertakes remedial training or conciliation as determined by the Standards Committee.
- (iv) Partial suspension as a Councillor of the relevant authority for up to 3 months. This could be suspension from planning Committee if the misconduct particularly related to his/her participation in Planning Committee; or
- (v) 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.

Any such sanction take 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

(h) 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.

4. A Procedure for dealing with Referred Allegations

(i) 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. So far as officers are aware there are currently no such cases being "held" by the Standards Board but it is clearly important that we draw up and agree a procedure before any referrals are made.

(j) The Standards Board will be issuing guidance on such procedures shortly, and a report will be brought to the Committee once we have received that Guidance.

5. Recommendation

That this report be noted and that a further report be brought recommending a procedure for determining referred complaints once the Standards Board's Guidance has been received.

6. Implications

6.1 Finance Implications

These will be considered when the report recommending the procedure is brought to committee.

6.2 Legal Implications

These are contained in the body of the report.

7. Conclusion and Reasons for Recommendation

Background papers:

Information provided by Peter Keith Lucas at Wragge and Company.

Final Report Clearance

Signed by

Director of Law and Public Services

Date

Received by

Head of Scrutiny and Democratic Services

Date

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