

STANDARDS COMMITTEE**Monday 31 January 2005****PRESENT:-**

Mr A HOBDEN (Independent Representative and Chairman); Mr L LIBECCIO (Independent Representative); Councillors Mrs HEALY, TAYLOR and STEVENS.

(An apology for absence was reported from Councillor Harris)

11. **MR J LIBBECIO.** The Chairman welcomed Mr Libeccio to his first meeting as an Independent Member of the Committee.
12. **MINUTES.** The minutes of the meeting held on 18 October 2004 were submitted and approved and the Chairman was authorised to sign them as a correct record.
13. **LOCAL INVESTIGATION OF MISCONDUCT ALLEGATIONS.** The Committee considered the report of the Monitoring Officer regarding changes in national legislation relating to the determination of complaints under the Members' Code of Conduct.

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 came in to force on 30 June 2003 and empowered Ethical Standards Officer to refer completed investigation reports to an authority's Standards Committee for determination.

Under new regulations, which came into force on 4 November 2004 an Ethical Standards Officer could now refer the investigation of complaints of misconduct to the Monitoring Officer for local investigation. The regulations also made important amendments to the powers of Standards Committees, even in cases that had been investigated by an ESO.

It was noted that an ESO would refer for local investigation matters which were considered to be of an entirely local nature, or which did not appear to need the heavier penalties available only to the Adjudication Panel for England.

The sanctions that could be set were detailed in the report and it was noted that the regulations provided for flexibility to combine sanctions were appropriate. The Committee's maximum sanction was 3 month's suspension.

In accordance with the regulations and guidance published by the Standards Board, model procedures were now proposed for the conduct of local investigations and for local standards hearings. A unified approach for dealing with complaints arising from the Members' Code and the Local Protocols was also proposed. A revised procedure for Handling Complaints of Misconduct against Members and the proposed model procedures were attached as appendices to the report.

As the Monitoring Officer was chief policy advisor to the Standards Committee and the main contact for advising individual Members on standards issues, a conflict of interest would arise in respect of conducting investigations and may also preclude the Monitoring Officer from acting as legal advisor to the Committee for individual case hearings.

The Monitoring Officer had the statutory power to appoint another person to undertake any investigation, which would include presenting the investigation report at any local standards hearing. The appointment could be an officer from the Council, or in sensitive cases an investigator from another authority or an experienced commercial investigator. If another legal officer were required to act as advisor to the committee at a particular hearing, an

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advisor would be sought from another local authority or a private practice solicitor. The Committee was advised that an investigating officer might be at risk of a defamation claim from the Councillor or any other person mentioned in a report. Although the likelihood of such a claim was considered low, it was recommended that the Council grant an indemnity against the legal costs of defending any such claim and any damages that might be awarded.

Members referred to the length of time taken to conduct previous investigations. As no time limit had been set for the completion of the investigating officer's report, it was hoped that this process could be concluded within a reasonable period of time. It was noted that a hearing must be held within 3 months of the date on which the investigating officer presents the final report to the Monitoring Officer. Members indicated that a diagram showing the investigation process, to include time limits applicable to any part of the process, would be useful. In addition, the pre-hearing forms should be circulated with the new procedures to all Members of the Council.

The Committee suggested a number of amendments to the appendices as follows:

(1) Procedure for Local Investigation – Paragraph 3, Conduct of Investigation – section (b) Substitute "termination/terminate" for "conclusion/conclude "

(2) Procedure for Local Standards Hearings - Paragraph 3 – Representation – after "person" insert "such permission shall be normally granted".

RESOLVED: That subject to the amendments as set out above, the Council be recommended to approve the revised procedures for Handling Complaints of Misconduct against Members (Part 5, Section F of the Constitution) as set out in the appendices to the report.

14. EXCLUSION OF THE PUBLIC.

RESOLVED: That the public be excluded from the remainder of the meeting as otherwise there was a likelihood of disclosure to them of exempt information as defined in Schedule 12A of the Local Government Act, 1972. The relevant paragraph of Schedule 12A is shown beneath the item.

15. MONITORING OF COMPLAINTS.

The Committee was advised that since the report submitted to the meeting held on 18 October 2004, no further complaints had been received in respect of alleged breaches of the Code of Conduct and protocol rules. A progress report on any outstanding investigations would be submitted to the next meeting of this Committee.

RESOLVED: That the report be noted.

(Notes: (1) Exempt information reason – Para 1 – Information relating to councillors.
(2) The minute was declared open, but the discussions thereon remain confidential).

The meeting closed at 7.28pm.

A Hobden
Chairman