

**STANDARDS COMMITTEE
27 APRIL 2004**

Present: Independent members:
Mr V Kempner (in the Chair)
Ms S Fellows

Councillors Cooke, Daniel, Hancock and Wilson

6. MINUTES

RESOLVED – that the minutes of the meeting held on 11 November 2003 be approved and signed by the chair as a correct record.

7. COMPLAINTS RECEIVED SINCE THE LAST MEETING

The Borough Solicitor orally reported that no notifications had been received of any complaints being investigated by the Standards Board. She sought guidance about the criteria to be used in deciding what complaints would be appropriate to report to this Committee.

RESOLVED – that: -

- (1) the Borough Solicitor seek information from the Standards Board about their procedures regarding notification of the receipt of complaints to the person complained about; and**
- (2) the Borough Solicitor investigates ways of reporting complaints received to this Committee without disclosure of information that might prejudice future consideration.**

8. LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS – CONSULTATION BY THE OFFICE OF THE DEPUTY PRIME MINISTER AND THE STANDARDS BOARD FOR ENGLAND

The Borough Solicitor reported that the Office of the Deputy Prime Minister and the Standards Board for England were both consulting on proposed regulations and Standards Board guidance. This concerned the power of the Standards Board to refer complaints of misconduct direct to the local authority's Monitoring Officer following investigation and report to the Council's Standards Committee for determination.

The new powers relating to investigation and report by the Monitoring Officer, as opposed to the Ethical Standards Officer (ESO), were achieved by amendment to the 2003 Regulations. A copy of the Regulations and Draft Amendment Regulations, of the Draft Guidance from the Standards Board, and the requests for response on particular questions were appended to the report.

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Peter Keith-Lucas, a former local government solicitor, who was now in private practice and specialised in local government law and practice, had prepared a draft response to the consultation paper.

RESOLVED – that: -

(1) the Draft Regulations and Draft Guidance be noted and responses be approved as follows: -

(a) Criteria for reference for local investigation - response

**Whilst the proposed criteria address the main issues –
If an apology is adequate, it is irrelevant whether it is unreserved.
The issue of an apology is entirely separate from whether remedial
action has been taken;**

(b) The scope of investigatory powers - response

**Whilst a criminal sanction would be inappropriate for a local
investigation, there should be a statutory requirement for members
and officers to co-operate with a local investigation which,
ultimately, could be enforced through the civil courts, and the
Guidance should make it clear that failure to co-operate with a local
investigation could itself give rise to a further complaint of conduct
likely to bring the member's office or the authority into disrepute;**

(c) Reference back to the Standards Board - response

**Such a facility for referring a complaint back to the Standards
Board is welcome, but should be extended so that the Standards
Committee can also refer a matter back if, in the course of a
hearing, it concludes that its available sanctions are inadequate for
the particular matter;**

(d) The procedure for local hearings - response

**It is absolutely correct that all cases should finally be determined
by the Standards Committee, and that the investigating officer
should not have a power to close a case if he finds that there has
been no breach of the Code or no action is required. The proposed
two-stage hearing is cumbersome, and authorities should be given
discretion to determine a matter involving a breach of the Code at a
first meeting where it can do so fairly; on the other hand, retaining
the discretion would allow an adjournment to enable the member
affected to present his case fully, which he/she may not have
prepared for having been led to believe by the investigating
officer's report that there was no case to answer. To prepare for a
full hearing when there is a recommendation of no case to answer
could be costly both in terms of time and cost to the affected
member.**

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(e) Confidentiality of ESO's reports – response

The Committee would wish to adopt the same practice as the Standards Board in relation to the confidentiality of reports;

(f) The 3-month time limit for hearings - response

It is recommended that the Regulations provide for a 6 month time limit for the holding of the hearing;

(g) Seeking additional information - response

The current and the proposed regulations should be amended to enable the Standards Committee to commission additional evidence if, during the course of a local hearing, it does not feel that it has sufficient information to come to a safe determination of the matter. In practice it might instruct the investigating officer to report back with such additional evidence;

(h) Evidence of additional breaches - response

If the additional breaches of the Code of Conduct are essentially aspects of the same conduct (such as rudeness to an officer being both disrespect to the officer and conduct likely to bring the member's office into disrespect), there would seem to be merit in allowing the investigating officer to add them into the investigation and for them all to be dealt with by the Standards Committee at the one hearing, provided that the member had due notice. However, where the additional breaches relate to a different matter, it is quite right that the additional matters should be sent to the Standards Board;

(i) Sanctions available to the Standards Committee - response

The Standards Committee should be able to impose any combination of the available sanctions, provided that the total period during which the member is subject to any suspension or restriction should not exceed 3 months. Accordingly the sanctions available to the Committee should be as follows:

“Any one, or a combination of, the following sanctions –

- (i) censure of that member;**
- (ii) restriction for a maximum period of three months of that member's access to the premises of the authority and the member's use of the resources of the authority;**
- (iii) partial suspension of that member for a maximum period of three months;**
- (iv) suspension of that member for a maximum period of three months;**
- (v) requirement to submit a written apology in a form satisfactory to the Standards Committee;**

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- (vi) requirement to undertake training as specified by the Standards Committee; and
- (vii) requirement to undertake conciliation as specified by the Standards Committee.

provided that the maximum period during which the member shall be subject to a suspension or restriction shall not exceed 3 months”;

- (j) Notification to the Standards Committee of reference for local investigation - Proposed response

It is suggested that notification to the complainant, the member and the parish clerk should be undertaken by the Monitoring Officer rather than by the ESO, as the Monitoring Officer can then advise them who has been appointed to undertake the investigation. The propose notification to the members of the Standards Committee appears to be completely pointless in the form suggested and so this requirement for notification should be dropped; and

- (2) The Borough Solicitor investigate and report on what records are kept by the Standards Board on individual members and how long sanctions imposed remain on record.

9. STANDARDS BOARD ADVICE ON PREJUDICIAL INTERESTS

The Borough Solicitor submitted a report advising the Committee of advice received from the Standards Board on the application of paragraph 10 (20)(c) of the Code of Conduct.

RESOLVED – that the advice and guidance received from the Standards Board which should be given to members and others bound by the Code of Conduct be noted and circulated to all members of the Council.

10. NEXT MEETING

RESOLVED – that the next meeting be held at 5.30 pm. on Tuesday, 13 July 2004

(The Chair declared the meeting closed at 7.20 pm)