

LONDON BOROUGH OF BRENT
STANDARDS COMMITTEE – 15TH JULY 2003
REPORT FROM THE BOROUGH SOLICITOR

FOR NOTING

WARDS AFFECTED: ALL

REPORT TITLE : LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATIONS) REGULATIONS 2003

1.0 SUMMARY

- 1.1 This is a report from the Borough Solicitor to the Standards Committee concerning the coming into effect of the regulations made by the Secretary of State under Part III of the Local Government Act 2000 concerning investigations into allegations that Members have failed to comply with the Authority's Code of Conduct.

2.0 RECOMMENDATIONS

- 2.1 Members note the coming into effect of the Local Authority's (Code of Conduct) (Local Determinations) Regulations and the implications thereof and note that a further report will be brought before Members to agree the protocol to be adopted by the Committee when considering referrals to it.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications arising from this report.
- 3.2. There will, however, be some training costs associated with training Members of the Standards Committee to hear cases referred to them.

4.0 STAFFING IMPLICATIONS

- 4.1 There are no direct staffing implications as the Standards Committee was set up by the Council in order to perform this particular function.

5.0 LEGAL IMPLICATIONS

- 5.1 The new ethical arrangements involving a code of conduct for Members and establishment of Standards Committees were introduced by Part III of the Local Government Act 2000.

- 5.2 Under Section 49 of that Act the Secretary of State can specify the principles which should govern the conduct of Members and co-opted Members of relevant authorities in England. He has issued a model Code of Conduct, which has statutory effect, and which was adopted by this Council in May 2002.
- 5.3 Each Member and co-opted Member is bound by the Code of Conduct and undertakes to observe it.
- 5.4 By Section 53 of the Local Government Act 2000, each Local Authority must establish a Standards Committee the functions of which are promoting and maintaining high standards of conduct by the Members and co-opted Members of the authority and assisting Members and co-opted Members of the authority to observe the authority's Code of Conduct.
- 5.5 Where a complaint is made against a Member and that matter is referred to an Ethical Standards Officer under the provisions of the 2000 Act, the Ethical Standards Officer can under Section 59 (4)c refer the matter which is the subject of the investigation to the Monitoring Officer of the relevant authority.
- 5.6 Where the Ethical Standards Officer takes that action and refers the matter to the Local Authority the Monitoring Officer must deal with the matter in accordance with regulations made by the Secretary of State under Section 66 and it is those regulations which are the subject of this report.

6.0 DETAIL

- 6.1 The regulations contained in statutory instrument 2003 No. 1483 were made on 5th June 2003 and came into force on 30th June 2003.
- 6.2 Regulation 3 makes a slight amendment to the previous Standards Committee regulations in that the part of the Local Government Act relating to access to meetings and documents is now applicable to Standards Committees although the categories of exempt information which are disclosable to Members of the public and others are extended to:
- exclude information relating to the personal circumstances of any person;
 - information subject to any obligation of confidentiality;
 - information which relates in any way to matters concern national security;
 - deliberations of a Standards Committee or a sub-committee of a Standards Committee in reaching any finding on a matter referred under the provisions of s64(2) or s71(2) of the Local Government Act 2000.
- 6.3 Part 2 of the regulations deal with the consideration by the Standards Committee of matters referred to it.

- 6.4 Broadly speaking, the Monitoring Officer must send a copy of any report received from an Ethical Standards Officer to any Member who is the subject of such report and convene a Standards Committee to consider that report. A Standards Committee must ensure that the hearing is conducted having regard to any guidance issued by the Standards Board and in any event within three months of the date on which the Monitoring Officer first received a report from the Ethical Standards Officer. So far, no guidance has been issued by the Standards Board. A report will be brought before members setting out the recommended procedure which will take into account any guidance which will then by then have been issued by the Standards Board.
- 6.5 The hearing shall not, however, be held until at least 14 days after the date on which the Monitoring Officer sent the report to the Member who is to be the subject of the hearing unless that Member consents to the hearing being held earlier.
- 6.6 Any Member who is a subject of a report being considered by the Standards Committee is given an opportunity to present evidence in support of his or her case and can make representations at the hearing.
- 6.7 The Standards Committee can conduct a hearing using such procedures as it considers appropriate subject to any guidance issued by the Standards Board and, presumably, the rules of natural justice. A further report to Members will follow once guidance is issued.
- 6.8 The Standards Committee can call for such witnesses as it deems appropriate and the Member who is the subject of the hearing can call for witnesses if he or she so wishes. However the Committee can place a reasonable limit on the number of the witnesses a Member can call.
- 6.9 The Member is entitled to representation by Counsel or a Solicitor or with the consent of the Standards Committee by any person who he/she wishes to represent him/her.
- 6.10 There are provisions dealing with failure of that Member to attend that Committee. These are that they may either consider the matter in his or her absence if they are not satisfied there is sufficient reason for his/her non attendance or adjourn the hearing to another date.
- 6.11 The Standards Committee can make any one of the following findings :
- (i) that the Member had not failed to comply with the Code of Conduct concerned
 - (ii) the Member failed to comply with the Code of Conduct concerned and that no action needed to be taken or
 - (iii) that the Member failed to comply with the Code of Conduct and that a sanction should be imposed.

6.12 The sanctions available to the Standards Committee are:

- (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 use of the resources
- (iii) partial suspension for a maximum period of three months
- (iv) partial suspension for a maximum period of three months or until such time as he or she submits a written apology or undertakes any training or conciliation specified by the Committee
- (v) suspension for a maximum period of three months
- (vi) suspension of that Member for a maximum period of three months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Standards Committee.

As soon as reasonably practicable the Standards Committee must take reasonable steps to give written notice of findings made under the regulations and the reasons of the findings to the Member, Ethical Standards Officer any other relevant Standards Committee and the person who made the allegation that gave rise to the investigation.

6.13 The Standards Committee must give reasons for their finding and must publish a summary of the finding in one or more newspapers circulating in the area of the authorities concerned. However a Member who has had a finding made that he/she has not failed to comply with the Code of Conduct can require that no published summary in a newspaper be made.

6.14 There is an appeals process set out in Part 3 of the regulations enabling the Member who is the subject of the finding to give notice to the President of the Adjudication Panel to seek permission to appeal and that application shall be decided by the President of the Adjudication Panel. If the permission is given then the matter is referred to an Appeals Tribunal. The Adjudication Panel is established by section 75 of the Local Government Act 2000. All Members are appointed by the Lord Chancellor and he appoints one Member as President.

6.15 The Appeals Tribunal consists of not less than three Members appointed by the President of the Adjudication Panel from Members of the Adjudication Panel.

6.18 The Appeals Tribunal can uphold or dismiss the finding or, if it so decides part of the finding of the Standards Committee. It may approve any penalty imposed by the Committee or require the Committee to impose a penalty or require the Committee to impose a different penalty. Under Section 76 all adjudications are referred to the President and conducted by a case tribunal of not less than 3 members of the Adjudication Panel.

6.19 The Standards Committee is required to comply with any decision of the Appeals Tribunal of which it is given notice.

- 6.20 At the date of writing this report no guidance has yet been issued by the Standards Board concerning the conduct of such Standards Committee meetings although it is anticipated that the Standards Board will issue some guidance.
- 6.21 It is proposed that some training be given to Members of the Standards Committee in dealing with hearings under these regulations. Such training will be developed as part of the agreed Members training programme.

7.0 Background Information

Local Government Act 2000

Local Authorities (Code of Conduct) (Local Determination) Regulations 2003

Any persons wishing to inspect the papers in connection with the above proposals should contact Ian Chisnell at:-

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