

LONDON BOROUGH OF BRENT
STANDARDS COMMITTEE – 22 JANUARY 2004
REPORT FROM THE BOROUGH SOLICITOR

FOR ACTION

WARDS AFFECTED:
ALL

<p>REPORT TITLE: GUIDANCE AND PROCEDURE FOR LOCAL DETERMINATION OF ALLEGATIONS OF MISCONDUCT AGAINST MEMBERS OF THE COUNCIL</p>
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1.0 SUMMARY

- 1.1. This is a report from the Borough Solicitor to the Standards Committee regarding the procedure that will be followed by the Monitoring Officer and the Standards Committee when dealing with matters which are referred to them for local determination.

2.0 RECOMMENDATIONS

- 2.1 To agree the draft procedure for the local determination of allegations of misconduct against members of the Council attached to this report at Appendix 1 and to authorise the Borough Solicitor to make changes to the procedure in consultation with the Chair.
- 2.2 That the Committee notes the provisions of the Local Authorities (Code of Conduct) (Local to Determination) Regulations 2003 as well as the Standards Board for England Guidance attached to this Report at Appendix 2.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications arising from this report. Financial implications may arise once the Standards Committee begins to hear allegations.

4. STAFFING IMPLICATIONS

- 4.1 There are no direct staffing implications.

5. LEGAL IMPLICATIONS

- 5.1 Under the provisions of Part 3 of the Local Government Act 2000, Ethical Standards Officers may carry out investigation into allegations that a member of an authority in England has failed to comply with an authority's Code of Conduct. The Ethical Standards Officer may choose to refer the matter under investigation, and send the report on the outcome of this investigation to the Monitoring Officer of the authority concerned.
- 5.2 Section 66 of the Local Government Act 2000 gives the Secretary of State the power to make regulations to determine the way in which matters referred to the Monitoring Officer should be dealt with. The section deals with two sets of circumstances. Firstly, the section refers to investigation by the Monitoring Officer of an authority where an Ethical Standards Officer has referred the allegation without investigating it him or herself. Secondly, when an Ethical Standards Officer has made a finding on his or her investigation and sent a report to the Monitoring Officer.
- 5.3 The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 make provision in respect of the way that matters referred to Monitoring Officers are to be dealt with. It sets out the principles within which Local Standards Committees should consider reports on alleged member misconduct completed by Ethical Standards Officers and referred to their Monitoring Officer. These Regulations came into force on 5th June 2003 and were reported to a previous meeting of this committee.
- 5.4 Part 2 of the Regulations deal with hearings of the Standards Committee. The Standards Committee of an authority must ensure that:
- The hearing is conducted having regard to any guidance issued by the Standards Board pursuant to Section 57 (5) of the Local Government Act 2000;
 - The hearing is held within three months, being the date on which the Monitoring Officer first received the report. However, the hearing should not 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 the member agrees to the hearing being held earlier;
 - Any member who is the 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
 - any member who is the subject of a report being considered by the Standards Committee is given the opportunity to make

representations at the hearing, either by himself or through a representative appointed by him. The Member should also given an opportunity to give oral or written representations at the hearing.

6. DETAIL

- 6.1 Regulation 3 of the Local Authorities (Code of Conduct) (Local Determination) 2003 states that Standards Committee may conduct a hearing using such procedures as it considers appropriate in the circumstances.
- 6.2 The procedure that will be followed by the Monitoring Officer and the Standards Committee has now been drafted in accordance with this regulation and following the requirements listed at paragraph 5.2 above and the Standards Board Guidance (attached at appendix 2). The procedure is designed to ensure that the Standards Committee has an affective, fair and efficient hearing process to assess members who are the subject of a complaint.
- 6.3 The Standards Board for England Guidance provides a model hearing procedure for Local Authorities. The model procedure is not compulsory and Brent has therefore produced a local procedure to determine matters. This procedure note has been drafted to remain consistent with the principles of the Standards Board Guidance. The Appendices mentioned in the procedure note will be drafted following the principles outlined in the note as well as the Guidance issued by the Standards Board for England.

7.0 Background Information

Local Government Act 2000

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

Standards Board for England Guidance – July 2003

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

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