

STANDARDS COMMITTEE
25 January 2006

**REVISION OF PROCEDURE FOR DETERMINATION OF COMPLAINTS
REFERRED BY THE ETHICAL STANDARDS OFFICER**

Purpose of the Report

1. To ask the Standards Committee to approve amendments to the Procedure for Determination of Complaints referred by the Ethical Standards Officer to reflect changes resulting from the Local Authorities (Code of Conduct) Local Determination) (Amendment) Regulations 2004.

Background

2. The current Procedure for Determination of Complaints referred by the Ethical Standards Officer (the Procedure) was adopted by the Standards Committee on 4th December 2003. The Procedure is included as an Appendix to the Council's Constitution.
3. Since that time the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, on which the Procedure was based, have been amended to allow an Ethical Standards Officer to refer a complaint under the Code of Conduct to a monitoring officer for investigation. The amending legislation - the Local Authorities (Code of Conduct) Local Determination) (Amendment) Regulations 2004 - deals with the way in which such matters should be investigated by monitoring officers and also the way in which standards committees should then deal with reports prepared by the monitoring officer on the outcome of any such investigation.
4. To date it has not been necessary to invoke the Procedure. However, the Procedure needs updating to reflect the changes introduced by the 2004 Regulations.

Main Considerations for the Council

5. A copy of the Procedure showing the proposed amendments is attached at Appendix 1.
6. The proposed amendments:
 - 6.1. explain the possible outcomes that may result from the referral of a complaint to a monitoring officer for investigation (see preliminary narrative – Appendix 1);
 - 6.2. amend the definition of “Investigator” to include the Monitoring Officer to whom a complaint has been referred for investigation (paragraph 1.2 Appendix 1);
 - 6.3. specify the timescale within which a hearing must be held following investigation by the Monitoring Officer (paragraph 4.1 Appendix 1).

- 6.4. give the Committee hearing a complaint the right to adjourn the hearing at any stage prior to its conclusion and require the Monitoring Officer to seek further information or undertake further investigation on any point. The law allows only one adjournment to be granted under this provision. (paragraph 9.10 Appendix 1)
- 6.5. give the Committee the right at any stage prior to the conclusion of the hearing to adjourn the hearing and make a written request to the Ethical Standards Officer to refer the matter back to the Ethical Standards Officer for investigation. This power might be used, for example, where the Committee considers that the complaint is of such a serious nature that the sanctions at its disposal would be inadequate, or that the local circumstances make it impossible to hold a proper and impartial hearing on the matter. (paragraph 9.11 Appendix 1)
- 6.6. extend the range of sanctions available to the Committee to impose in the event of a finding that the Member has failed to comply with the Code of Conduct.

Environmental Impact of the Proposal

7. No environmental impact arises from this report.

Financial Implications

8. There are no costs arising directly from the proposed changes to the Procedure, although there will be additional costs attributable to investigations which the Monitoring Officer, or his nominated representative, will be obliged to undertake upon referral of complaints by an Ethical Standards Officer.

Reasons for the Proposal

9. The proposed amendments are necessary to bring the Procedure in line with the current legislation relating to the determination and investigation of complaints under the Code of Conduct.

Proposal

10. The Standards Committee is asked to approve the proposed revisions to the Procedure as set out in Appendix 1.

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Unpublished documents relied upon in the preparation of this Report: None