



AGENDA

STANDARDS COMMITTEE

TUESDAY 8 JULY 2003 AT 2.00 PM

in the Flensburg Room, Civic Centre, Carlisle

Election of Chairman

To elect a Chairman of the Standards Committee for the ensuing municipal year.

Apologies for Absence

To receive apologies for absence and notification of substitutions.

Public and Press

To determine whether any of the items within Part A of the agenda should be dealt with when the public and press are excluded from the meeting.

Declarations of Interest

Members are invited to declare any personal interests, and any personal interests which are prejudicial, relating to any item on the agenda at this stage.

PART A

To be considered when the Public and Press are present

A.1 SECTION 66 REGULATIONS

To consider a Report of the Head of Legal and Democratic Services with regards to the Section 66 Regulations regarding local investigation into complaints of misconduct under the Codes of Conduct.

(Copy Report LDS.39/03 herewith)

A.2 APPOINTMENT OF INDEPENDENT MEMBER TO SERVE ON THE STANDARDS COMMITTEE

The Head of Legal and Democratic Services to report.

Members of the Standards Committee:

Conservative: Dodd, Mallinson J

Labour: Hendry, Im Thurn

Liberal Democrat: Farmer

Substitutes: Knapton, Prest (Conservative), McDevitt, Styth (Labour), Aldersey (Liberal Democrat)

Mr A Fraser and Councillor Mrs Wilkinson, Substitute Councillor J Holland

Enquiries to Committee Clerk: Mr Ian Dixon Ext. 7033

Notes to Members:

CARLISLE CITY COUNCIL

Report to:- THE CHAIRMAN AND MEMBERS OF THE STANDARDS COMMITTEE

Date of Meeting:- 8 JULY 2003

Agenda Item No:-

Public	Operational	Delegated Yes
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Accompanying Comments and Statements	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	Yes
Personnel Comments:	No	No

Title:- DETERMINATION OF ALLEGATIONS OF MISCONDUCT BY THE STANDARDS COMMITTEE

Report of:- HEAD OF LEGAL AND DEMOCRATIC SERVICES

Report reference:- LDS.39/03

Summary:-

To inform Members of the provisions of the new Section 66 Regulations which set out how the Standards Committee should deal with complaints referred to it by Ethical Standards Officers.

Recommendation:-

That this report be noted and that the Head of Legal and Democratic Services report further on a procedure for determining referred complaints once guidance from the Standards Board for England has been received.

Contact Officer: John Egan

Ext: 7004

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

1. INTRODUCTION
 - 1.1 The Government has now made the first part of the long awaited Section 66 Regulations which will enable the Ethical Standards Officers of the Standards Board for England to refer allegations of breaches of the Council's Code of Conduct to the Standards Committee for local determination, once the Ethical Standards Officer has completed an investigation of and a report on the allegations.
 - 1.2 A further set of Section 66 Regulations will be made later in the year, once the Local Government Bill is in force, which will enable an allegation to be referred down to the Monitoring Officer for investigation, so that the Monitoring Officer will then secure the investigation of the allegation and then report accordingly to the Standards Committee. The current regulations are, therefore, only one part of the legislative jigsaw which is intended to be put into place to enable conduct complaints to be investigated and determined locally.
2. THE CONTENT OF THE REGULATIONS AND A PROCEDURE FOR DEALING WITH REFERRED ALLEGATIONS
 - 2.1 The regulations themselves contain no great surprises in terms of the procedure which Authorities will be required to follow in dealing with allegations of failure to comply with their Codes of Conduct.
 - 2.2 A full summary of the main provisions of the regulations is set out in the Appendix attached to this report for members' information.
 - 2.3 The Regulations take effect from 30 June 2003. Ethical Standards Officers will from then start to refer any allegations of breaches of Codes of Conduct, either by members of the City Council or the Parishes for which the Standards Committee is responsible, where they consider that the alleged misconduct is of such a nature that, if proven, it would merit a sanction of the sort set out in the attached Appendix. If the Ethical Standards Officer's view is that the misconduct would warrant the application of the more draconian sanctions available to a national Case Tribunal of, for example, suspension of up to one year or disqualification from the authority for up to five years, then the matter will be dealt with by the national Case Tribunal and not passed on to the local Standards Committee to deal with.
 - 2.4 It is important for the authority to have determined a procedure for dealing with any allegations referred to it by an Ethical Standards Officer so that, when the first one

is received, all parties are clear as to how the matter will be dealt with and when they will have an opportunity to contribute to the process. The Standards Board for England will be issuing guidance on such procedures shortly and I propose to recommend a procedure to the Committee to agree upon once that guidance from the Standards Board has been received.

3. RECOMMENDATION

- 3.1 That this Report be noted and that the Head of Legal and Democratic Services report further on a procedure for determining referred complaints once guidance from the Standards Board for England has been received.

JOHN EGAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

**THE LOCAL AUTHORITIES (CODE OF CONDUCT)
(LOCAL DETERMINATION) REGULATIONS 2003**

**SUMMARY OF THE REGULATIONS APPLICABLE
TO STANDARDS COMMITTEES**

1. APPLICATION

- 1.1 The new Regulations commence on 30 June 2003 and they apply to all “relevant authorities” which, for our purposes, includes the City Council and the Parishes in its area for which the Standards Committee is responsible.

2. CAPACITY OF THE STANDARDS COMMITTEE TO HOLD HEARINGS IN PRIVATE

- 2.1 The Regulations extend the current legislative definition of “exempt information” to make it clear that the Standards Committee can meet in private session to determine allegations. The following additional reasons for going into private session are added to the existing legislative list as follows:

- Information relating to the personal circumstances of any person.
- Information which is subject to any obligation of confidentiality.
- Information which relates in any way to matters concerning national security.
- The deliberations of the Standards Committee when reaching a finding on matters referred to it by an Ethical Standards Officer.

- 2.2 In practice, to ensure public confidence in the process, the Standards Committee should meet in public where possible unless there are overriding reasons for going into private session, such as the need to protect the privacy of individuals. However, these amendments do usefully allow the Committee to prevent public access to Committee papers prior to the hearing and enable the Committee to consider the matter in private if one of the above exempt categories of information is applicable.

- 2.3 Provision is also made to enable an Ethical Standards Officer (ESO) to disclose information obtained during his/her investigation to a Standards Committee or an Appeals Tribunal to enable those bodies to carry out their functions. Without this provision, the system would probably not work because the ESO would be unable to pass on confidential information obtained during an enquiry to the other two bodies to enable them to make determinations.

3. HEARINGS BY STANDARDS COMMITTEES

- 3.1 If a matter is referred to the Council's Monitoring Officer by an ESO then the Monitoring Officer has to copy the report to the member to whom it relates and then to arrange for the Standards Committee to meet to consider the report.

- 3.2 The Standards Committee have a responsibility to convene to conduct a hearing into the allegation. The Committee must ensure that:

- They conduct the hearing in accordance with any guidance issued by the Standards Board for England (which is still awaited).
- That the hearing takes place within three months of the Monitoring Officer receiving the report but not less than 14 days after the report has been sent to the member concerned, unless the member agrees to an earlier hearing. Presumably this is to give the member a reasonable time to prepare his/her response to the report. There appears to be no provision for the Standards Committee to call the ESO to give evidence in support of his/her report. Circumstances may arise where the Committee may wish to ask the Standards Board for the ESO to make such an appearance if there are substantial disputes of fact in a particular case, but there appears to be no automatic right for the Committee to require such attendance.
- The member who is the subject of the report must be given an opportunity to make representations at the hearing before the Committee, either orally or in writing, and personally or through a representative.
- The Committee can conduct the hearing using such procedures it thinks appropriate, but subject always to any guidance given by the Standards Board on how the proceedings should be conducted.
- The Committee can arrange for the attendance of witnesses at the hearing, as can the member concerned, but the Committee has power to place a limit on the

number of witnesses if it considers that the number proposed to be called is unreasonable.

- The member concerned may be represented by Counsel, a Solicitor or (with the consent of the Committee) by any other person he/she wishes.
- If a member fails to attend then the Committee may determine the allegation in his/her absence unless they are satisfied that there is a reason for non-attendance. Alternatively, the Committee may adjourn the hearing to another date.

4. FINDINGS OF THE STANDARDS COMMITTEE

4.1 The Committee must make one of the following determinations after a hearing:

- That the member concerned had not failed to comply with the Code of Conduct.
- That the member had failed to comply but that no action needs to be taken.
- That the member had failed to comply and that the sanctions mentioned in paragraph 5 below should be imposed.

5. SANCTIONS IMPOSED BY THE STANDARDS COMMITTEE

5.1 If a member is no longer a member of the Authority but the Committee has determined that he/she has been in breach of the Code, then it must censure the person concerned.

5.2 If the person concerned is still a member of the Authority, then the Committee can impose any one, or a combination of, the following sanctions:

- A censure of the member concerned.
- Restrict the member's access to premises and resources of the Authority for a maximum period of three months, provided that such restrictions are reasonable and proportionate to the breach concerned and do not unduly restrict the member's ability to perform his/her duties and functions.

- Impose a partial suspension of the member for a maximum period of three months. “Partial” in this context means a restriction from exercising particular specified functions as opposed to full suspension from the Authority.
- Impose a partial suspension for three months or until such time as the member submits a written apology or undertakes any training or conciliation specified by the Standards Committee.
- Impose a full suspension of the member for a maximum period of three months. A “full” suspension in this context means suspension from being a member of the Authority and will include suspension from membership of Committees and the Executive (if applicable) as well.
- Impose a full suspension from the Authority for a maximum period of three months or until the member submits a written apology or undertakes training or conciliation specified by the Standards Committee.

5.3 The period of suspension starts immediately it is imposed by the Standards Committee, unless the Committee exercises its power to delay the commencement of the sanction until a later date, which must be not more than six months after its imposition.

6. NOTIFICATION OF FINDINGS OF THE STANDARDS COMMITTEE

- 6.1 The Committee, as soon as reasonably practicable, has a duty to take reasonable steps to give written notice of its findings and its reasons for them to the member concerned; the ESO; the Standards Committee of the Authority concerned and any other Authority; any Parish Council concerned and any person who made the allegation that gave rise to the investigation.
- 6.2 The Committee must also arrange for a summary of its findings to be published in one or more newspapers circulating in the area, unless it concludes that the member concerned did not fail to comply with the Code of Conduct, in which case the summary is not to be published in the newspaper unless the member concerned so requests.
- 6.3 If the Standards Committee found that the member concerned did not fail to comply with the Code then it must say so in the written notice referred to above, together with its reasons for reaching that finding.

- 6.4 Where the Committee finds that the member had failed to comply with the Code but that no action needed to be taken in respect of that failure, then the written notice referred to above must specify the details of the failure, together with the reasons for the decision reached by the Standards Committee, and must also state that the member concerned can apply for permission to appeal against the findings of the Committee under the relevant parts of the Regulations.
- 6.5 Where the Committee finds that the member had failed to comply with the Code and that a sanction should be imposed, the written notice must state that the member had failed to comply with the Code, specify the details of the failure, give reasons for the decision reached by the Standards Committee, specify the sanction to be imposed and state that the member concerned may apply for permission to appeal against the Committee's decision as allowed by the Regulations.

7. APPEALS AGAINST THE STANDARDS COMMITTEE DECISION

- 7.1 A member the subject of a finding by the Standards Committee may appeal by written notice to the President of the Adjudication Panel within 21 days of the member being notified of the findings of the Standards Committee. The member must specify the reasons for the appeal and whether he/she agrees to the appeal being dealt with by written representations or wishes an oral hearing.
- 7.2 The President then decides whether to give permission to allow the Appeal to go ahead on the basis of whether he considers there is a reasonable prospect of it succeeding. The Appeal may be dealt with either by a formal hearing or by written representations (if the member so agrees) and the member may be represented by Counsel, a Solicitor (or with the consent of the Appeals Tribunal) by another person.
- 7.3 The Appeals Tribunal is to consist of not less than three members of the Adjudication Panel. The Panel can uphold or dismiss the finding of the Standards Committee or part of such a finding and can approve the sanction imposed by the Committee or impose a different one. The Appeals Panel must give formal notice of its decision and publish a summary in the local press.