

# Item 8

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### SBE CONFERENCE: LOCAL INVESTIGATIONS AND APPEALS FROM LOCAL DECISIONS

#### 1. SUMMARY

- 1.1 Local investigations have become an integral part of the system of promoting high ethical standards and are likely to become increasingly important as the majority of complaints are referred back to the local level. This report summarises the changing role of the Standards Board, local investigations and appeals from local decisions.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee be appraised of the report and future changes be noted.

#### 3. DETAIL

- 3.1 The devolution of responsibility for handling complaints to the local level has gone hand-in-hand with the changing role of the Standards Board, which now focuses less on conducting its own investigations and more on supporting and advising local authorities, as a strategic regulator. The decision to refer more cases for local investigation and determination is based on the principle that local people should take local decisions on local issues.
- 3.2 The Standards Board's Ethical Standards Officers have been referring allegations to Monitoring Officers to investigate since November 2004. 43% of all cases were referred back for local investigation between 4<sup>th</sup> November 2004 and 31<sup>st</sup> August 2006. 57% of cases were referred for local investigation between 1<sup>st</sup> April and 31<sup>st</sup> August 2006.
- 3.3 The majority of cases are referred for local investigation; however, there are exceptions when local authorities are unable to deal with cases, for a variety of reasons. The Standards Board has decided only to retain cases automatically where the complaint is so serious that, if proven, it would warrant the penalties only available to the Adjudication Panel.

- 3.4 The Standards Board has analysed a sample of local investigations and found that there has been a positive start to the local investigation of complaints, with most of the complaints being dealt with effectively.
- 3.5 However, there is some concern about the time it is taking to complete some investigations. As of 1<sup>st</sup> September 2006, 37% of ongoing local investigations were over six months old and 9% were over 12 months old. The Standards Board has now developed a process to monitor the progress of local investigations by contacting Monitoring Officers about the anticipated length of their investigations and will be proactive in pursuing those Monitoring Officers whose cases have not been completed within six months.
- 3.6 There are Government proposals for local authorities to assume responsibility for receiving and assessing allegations at the initial stage, and decide whether or not they should be investigated. This should increase the local ownership of the standards process still further, and allow local knowledge and sensitivities to be brought to bear on complaints from the onset.
- 3.7 **Appeals from Local Decisions:** The subject member has the right to seek permission to appeal against the Standards Committee's finding, to the President of the Adjudication Panel. Members are entitled to request permission to appeal by lodging the request within 21 days of receiving the Standards Committee's notification of finding.
- 3.8 The Adjudication panel will, when reaching a decision, consider whether the application contains any reasonable ground of appeal. If so, an appeals tribunal will be convened to determine the matter. The tribunal will consist of at least 3 members appointed by the President to the Adjudication Panel. At least one of the members of the panel will be a legal member and will chair the tribunal.
- 3.9 Appeals can cover 3 possible areas. Some appeals dispute the facts of the case, some question the finding on whether or not there has been a breach of the Code of Conduct, and others challenge the sanction imposed by the Standards Committee. An appeal may consider all three of these aspects (the facts, the finding and the sanction), the finding and the sanction, or just the sanction.

#### **4. RESOURCE IMPLICATIONS**

- 4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

- 5.1 The Council's Management Team has considered this report.

## 6. OTHER MATERIAL CONSIDERATIONS

- 6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of the Council are fully apprised on standards matters.

## 7. OVERVIEW AND SCRUTINY IMPLICATIONS

- 7.1 None apply.

## 8. LIST OF APPENDICES

- 8.1 None apply.

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**Wards:** N/A

**Key Decision Validation:** N/A

### Background Papers

SBE Publication: The Case Review, Number 4, 2006

### Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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