

**LOCAL INVESTIGATION OF COMPLAINTS BY STANDARDS COMMITTEES
- LEGISLATIVE UPDATE**

1. Executive Summary

This report sets out the current position in relation to the local investigation and determination of misconduct allegations and current legislative timescale. Members are requested to note the report.

2. Background

2.1 Members will recall from previous reports that legislative framework provides for all breaches of the Members Code of Conduct to be submitted to the Standards Board for England for investigation. They may choose either to investigate the matter by way of their ethical standards officers, take no further action or refer the matter back to the Authority for investigation by the monitoring officer and report to the Standards Committee. In addition, the Ethical Standards Officer at the completion of his or her investigation may choose to send the matter back to the Authority not for investigation but for local sanction by the Standards Committee. In order to facilitate these arrangements, regulations are necessary under Section 66 of the Local Government Act 2000. Initially, these regulations were due some time ago and were last promised in September of last year.

2.2 The Government has now considered this matter further and has now put an amendment to the current Local Government Bill before Parliament which gives formal power to lay the regulations by way of an amendment to the Local Government Act 2000. The amendment to the Local Government Bill was placed at the beginning of March and this amendment has been proposed following consultation last summer to which this Standards Committee responded following its June meeting. The consultation was around the regulatory framework for local investigation of allegations and local hearings. There were over 1,000 responses to that consultation and the conclusion made at the end of the consultation was that the regulations could not be made under the 2000 Act but required primary legislation, hence the amendment to the Local Government Bill currently before Parliament.

2.3 The Government now intends to issue regulations with regard to the conduct of local hearings and investigations in two parts. The first set of regulations will set out the regime within which local Standards Committees will be able to consider reports on alleged councillor misconduct completed by the Ethical Standards Officers and referred to the Monitoring Officer for submission to the local Standards Committee for sanction. These cases will be cases where the Ethical Standards Officer has completed an investigation and decided that action may be appropriate but that the sanction is at such a level that it should be considered by the local Standards Committee of the Authority rather than by the Adjudication Panel of the Standards Board. I have been advised that these regulations will be laid before Parliament in early April and I will be able to

advise Members further on this at the committee meeting. I am also advised that the Standards Board intends to publish guidance for local standards committees on how these regulations should operate.

- 2.4 The second set of regulations will come later in the year following passage of the current Local Government Bill through Parliament. These regulations will provide for the actual investigation of complaints by monitoring officers or their deputies following a decision by an Ethical Standard Officer to cease an investigation and refer the matter on to the Monitoring Officer. By definition, these should be the less serious type of complaints. As I have said, the Government will not lay these regulations until a change has been made to the primary legislation and the reason for this is that the Monitoring Officer may need to appoint another person to conduct the investigation, particularly where for example the Monitoring Officer might have a conflict of interest say by having given advice in the first place which is at issue. The Government have advised that the regulations will be laid in this matter in the autumn of this year following enactment of the Local Government Bill.
- 2.5 I will update Members further on the regulations at the meeting in June and elsewhere on this agenda there is a reference to the annual assembly of Standards Committees taking place in June in Birmingham. It is clear that that conference will be discussing at some length the first set of regulations i.e. those around local sanction following investigation by the Ethical Standards Officers.
- 2.6 As soon as the first set of regulations I have referred to are laid before Parliament, there will be a need for the Standards Committee to approve a procedure for hearing complaints and training to take place for members of Standards Committees. I would propose to bring to the June meeting of the Standards Committee both an update in terms of the legislation and also a suggested procedure for dealing with hearings. I am currently working with Monitoring Officer colleagues across the North West to produce a standard protocol for hearing complaints which can be used by as many authorities as wish to adopt it. The protocol will deal with issues such as procedure, confidentiality, effective roles of members and the Monitoring Officer in determining complaints.

3. Financial and Staffing Implications

There are none arising from this report.

4. Any other implications

There are none arising from this report.

5. Recommendation

It is recommended that the report be noted.