

REPORT FOR DECISION

Agenda Item	
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MEETING: STANDARDS COMMITTEE
DATE: TUESDAY 2 MARCH 2004
SUBJECT: ENFORCING THE CODE OF CONDUCT LOCALLY – A SEMINAR FOR GREATER MANCHESTER AUTHORITIES
REPORT FROM: MONITORING OFFICER
CONTACT OFFICER: DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TYPE OF DECISION: N/A

REPORT STATUS: OPEN

PURPOSE/SUMMARY: To provide a summary of the main issues covered at a seminar organised for Greater Manchester Authorities entitled “Enforcing the Code of Conduct Locally.”

OPTIONS AND RECOMMENDED OPTION (with reasons): The Committee is asked to note the report.

IMPLICATIONS -

Financial Implications and Risk Considerations

There are no such implications arising from this report

Corporate Aims/Policy Framework:

Do the proposals accord with the Policy Framework? **Yes** **No**

Are there any legal implications? **Yes** **No**

Considered by Monitoring Officer: **Yes** The Council’s Monitoring Officer is required, under the Local Government Act 2000, to make arrangements for cases involving a breach of the Code of Conduct, which have been referred to her by the Standards Board, to be heard locally.

Statement by Director of Finance and E-Government:

There are no financial implications arising from this report.

Staffing/ICT/Property: N/A

Wards Affected: N/A

Scrutiny Interest: N/A

TRACKING/PROCESS SERVICES

DIRECTOR: LEGAL AND DEMOCRATIC

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
NO	NO	NO	NO
Scrutiny Panel	Executive	Committee	Council
NO	NO	YES	NO

1.0 BACKGROUND

1.1 Eversheds Local Government Group organised training on enforcing the Code of Conduct locally at Stockport and Wigan. The Wigan session, to which members of the Committee were invited, took place on 27 January. The purpose of this report is to look at the main issues and messages which emerged from the Seminar.

2.0 ISSUES

2.1 Enforcement of the Code of Conduct

2.1.1 Where an allegation is made regarding a breach of the Code of Conduct, this must be referred in the first instance to the Standards Board for England, where it will be referred to an Ethical Standards Officer (ESO) for investigation if appropriate. 60% of allegations to the Board are not investigated by an Ethical Standards Officer.

2.1.2 If a breach is found to have taken place, the ESO can determine that:

- No action is required
- The matter should be referred to the Adjudication Panel
- The matter should be referred to the local authority's Monitoring Officer for determination locally through the Standards Committee.

2.1.3 Where an Adjudication Panel determines that a breach has taken place, the following penalties can be applied:

- Suspension for up to one year
- Partial suspension
- Disqualification for up to 5 years
- Recommendations to the local authority

There are no costs awarded presently and this was a matter of concern for Members present at the Seminar.

2.1.4 Of the 2948 allegations made in 2002/2003, the outcomes were:

- 23% no breach of evidence
- 58% no further action
- 4% referred to the Monitoring Officer
- 15% referred to the Adjudication Panel.

2.2 Allegations dealt with Locally

2.2.1 A case will be referred for local determination when it is considered to be of a “local nature” and where the nature of the alleged breach would not, if upheld, require a heavy penalty.

2.2.2 At its meeting on 25 September 2003, the Committee adopted a procedure for local determination of allegations about the personal conduct of Council members.

2.2.3 If a breach of the Code is upheld locally, the penalties available to the Panel are as follows:

- Censure
- Restrict access to resources (including premises) for up to 3 months
- Suspend or partially suspend for up to 3 months
- Suspend or partially suspend for up to 3 months on conditions – examples would be an apology; training; or conciliation.

2.3 The Mock Hearing

2.3.1 Two mock hearings were held simultaneously which considered the scenario set out in Paragraph 2.3.2. Members and Officers who attended the seminar undertook the following roles:

- The Accused - Councillor John Smith, a Member of Porchester Borough Council.
- The Complainant - Mr David Brown – Planning Officer with Porchester Borough Council
- The Witness - Mrs Sophia Loren – local resident
- The Chairs and Members of the two panels of three
- The Ethical Standards Officer(s) who presented his/her report
- The Council’s Monitoring Officer(s) who advised the Panel(s).

2.3.2 The complaint was that between February 2003 and April 2003, Councillor Smith attempted to influence a planning application being submitted by a firm in which his son held a 49% shareholding. The essence of the complaint was that:

- In speaking to Mr Brown at his place of work, he attempted to get the application dealt with more quickly.
- Councillor Smith addressed Mr Brown in an inappropriate manner following a meeting of the Planning Committee at which a similar application had been dealt with. (Councillor Brown was not a member of the Planning Committee and had attended as an observer).
- Councillor Smith was aware of Mrs Loren’s concerns about the proposal and wrote to her, on Council headed notepaper, suggesting that the development would be of benefit to the area.

2.3.3 The report of the Ethical Standards Officer concluded that Councillor Smith had breached the Code of Conduct in the following ways:

- He had attempted to use his position improperly to secure an advantage for the applicant company.
- He had failed to declare an interest.
- He had treated Mr Brown with disrespect

- His actions had brought his office and the Council into disrepute.

2.3.4 Following the submission of the report of the ESO, and evidence provided by Councillor Smith, Mr Brown and Mrs Loren, Panel 1 concluded that Councillor Smith had failed to comply with the Code of Conduct and that he should be suspended for three months.

Panel 2 also concluded that a failure to comply with the Code had occurred but decided that there should be imposed a conditional suspension for up to three months until an apology was given and training undertaken.

CONCLUSION

3.1 The training event was well attended and provided an opportunity for those present to gain something of an insight into the working of a Standards Panel.

List of Background Papers: Documentation produced by Eversheds for the training event.

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