



**REPORT FOR DECISION**

Agenda Item	
-------------	--

**MEETING:** STANDARDS COMMITTEE  
**DATE:** 1 MARCH 2005  
**SUBJECT:** CODE OF CONDUCT – LOCAL INVESTIGATION BY THE MONITORING OFFICER  
**REPORT FROM:** MONITORING OFFICER  
**CONTACT OFFICER:** JAYNE HAMMOND  
DIRECTOR OF LEGAL & DEMOCRATIC SERVICES

**TYPE OF DECISION:** NON KEY  
**REPORT STATUS:** FOR PUBLICATION

**PURPOSE/SUMMARY:** To inform Members of the introduction of further regulations and guidance as to the local investigation and determination of allegations under the Code of Conduct for Members, and to propose amendments to the procedure for the conduct cases.

**OPTIONS AND RECOMMENDED OPTION**

It is recommended that:

- a) the provisions of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 with respect to the local investigation and/or determination of any matter referred to the Monitoring Officer under the regulations be noted; and that
- b) the amended procedure set out in Appendix 1 be adopted with respect to the determination of any matter referred to the Monitoring Officer under the Regulations.

**IMPLICATIONS -**

**Financial Implications and Risk Considerations**

**Corporate Aims/Policy Framework:**

Do the proposals accord with the Policy Framework? Yes  No

Are there any legal implications? Yes  No  (see paragraph .....)

**Considered by Monitoring Officer:** Yes. The report sets out changes to procedure for local investigation/determination of any matters referred from the Standards Board.

**Statement by Director of Finance and E-Government:**

**Staffing/ICT/Property:**

**Wards Affected:**

**Scrutiny Interest:**

---

---

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Management Board	Chair	Ward Members	Partners
	√		
Scrutiny Panel	Executive	Committee	Council

---

**1.0 BACKGROUND**

- 1.1 The Government has now introduced further regulations, which effectively amend the 1993 Regulations and provide for the local investigation and/or determination of allegations which are referred by an Ethical Standards Officer to the Council's Monitoring Officer. The 2004 Regulations came into force on 4 November 2004.
- 1.2 For the purposes of the amended regulations "Monitoring Officer" includes, in addition to the Monitoring Officer, his or her nominated deputy, and any other person who has been nominated by the Monitoring Officer to act on his or her behalf. The Monitoring Officer has arranged for two Deputy Monitoring Officers to act on her behalf if necessary but may arrange for another person, including another Officer of the Council, or the Monitoring Officer or other officer of another local authority, or an external adviser or investigator, to carry out the investigation of any matter which is referred by an Ethical Standards Officer for local investigation. It will, therefore, be possible for the Monitoring Officer to avoid any conflict of interest which might arise in relation to the investigation of a matter and the provision of advice to the Standards Committee in any subsequent hearing, or in any case where the Monitoring Officer has previously given advice on the matter, or has otherwise been personally involved in the matter.
- 1.3. The Standards Board has issued guidance for Monitoring Officers and Standards Committees in relation to local investigations. The guidance sets out the requirements and effect of the 2004 Regulations, and provides advice as to the conduct of an investigation under the Regulations. It is understood that the Standards Board will issue further guidance to monitoring Officers as to the conduct of investigations (still outstanding).

- 1.4 Not all referrals from the Ethical Standards Officer will require investigation as, under the Regulations, an Ethical Standards Officer can direct the Monitoring Officer to take some other form of action at local level. Examples include making recommendations to the Standards Committee about wider issues for the Council or ensuring that the parties concerned attempt some form of conciliation.
- 1.5 The Standards Committee will be involved at the following stages:
- (a) When a matter is first referred to the Monitoring Officer for investigation, by way of a report from the Ethical Standards Officer, members of the Standards Committee are to be notified (it will not normally be permissible at that stage for the Monitoring Officer to provide details of the complainant or the Member against the allegation has been made, nor any other detail which might prejudice the future determination of the matter by the Standards Committee, depending upon the outcome of the investigation).
  - (b) Once the investigation is completed, and the Monitoring Officer has produced a final report on the matter, the report will be submitted to the Standards Committee for consideration.
  - (c) If the Monitoring Officer finds that there has been no breach of the Code of Conduct, the Committee will be requested to decide (without, at that stage, hearing from the parties or any witnesses) whether to accept the Monitoring Officer's finding or whether there is a case to answer.
  - (d) If the Standards Committee accepts a finding of the Monitoring Officer that no breach has occurred, notice of the finding of the Standards Committee will be circulated, with reasons, to relevant parties and (unless the Member concerned requests to the contrary) published in a local newspaper.
  - (e) If the Monitoring Officer finds that there has been a breach of the Code of Conduct, or the Standards Committee find that there is a case to answer, a hearing will be convened and conducted in accordance with the Council's procedure.
  - (f) At any stage prior to the conclusion of a hearing, following investigation by the Monitoring Officer, the Standards Committee may adjourn the hearing, and require the Monitoring Officer to investigate further any specific point, and the hearing will resume once that point has been investigated. The Standards Committee may only adjourn on that basis once.
  - (g) The Standards Committee may also adjourn the hearing, and request that the matter be referred back to the Ethical Standards Officer for investigation. This will normally arise if the Standards Committee takes the view that the matter is so serious that it is unlikely that the sanctions available to the Standards Committee would be sufficient or appropriate, in the event that it is found that there has been a breach of the Code of Conduct. Again, the hearing may only be adjourned on this basis once.

- 1.6 The Regulations also add to the range of sanctions which may be imposed by the Standards Committee, if the Committee determines that there has been a breach of the Code of Conduct in any particular case. The sanctions which are now available to the Standards Committee are set out below, those which are additional to those provided under the 2003 Regulations being shown in bold type;

Censure the Member;

restrict the Member's access to the premises and resources of the Council for up to three months, ensuring that any such restrictions are proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his or her duties as a Member;

**Order the Member to submit a written apology in a form satisfactory to the Standards Committee;**

**Order the Member to undertake training specified by the Standards Committee;**

**Order the Member to participate in a conciliation process specified by the Standards Committee;**

Suspend, or partially suspend, the Member for up to 3 months;

Suspend, or partially suspend, the Member for up to 3 months, or until such time as the Member submits a written apology that is accepted by the Standards Committee; or

Suspend, or partially suspend, the Member for up to 3 months, or until such time as the Member takes any training or conciliation ordered by the Standards Committee.

- 1.7 Attached at Appendix 1 is the model procedure for the determination of allegations, which was approved by the Council following recommendations from the Standards Committee in October 2003, with, in italics, amendments and additions proposed in order to reflect the requirements of the 2004 Regulations, and the guidance issued by the Standards Board.

2.0 It is recommended that:

- a) the provisions of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 with respect to the local investigation and/or determination of any matter referred to the Monitoring Officer under the regulations be noted; and that
- b) the amended model procedure set out in Appendix 1 be adopted with respect to the determination of any matter referred to the Monitoring Officer under the Regulations.

**JAYNE HAMMOND**  
**DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

---

---

**List of Background Papers:-**

Standards Board for England - Guidance

**Contact Details:-**

Jayne Hammond, Director of Legal & Democratic Services  
j.m.hammond@bury.gov.uk

---