



Southend-on-Sea Borough Council

Report of Deputy Town Clerk and Monitoring Officer

To

Standards Committee

on

1 April 2004

Report prepared by : John Williams

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**Agenda
Item 6**

Local Investigations by Monitoring Officers

Part I Agenda Item

1. Purpose of Report

- 1.1 To inform Members of proposals for the second set of Section 66 Regulations. These regulations deal with local investigations by Monitoring Officers into allegations that a Member has breached the Code of Conduct.
- 1.2 Two Consultation Papers are attached to this report at **Appendix 1**. The first Consultation Paper is from the OPDM and relates to the proposed S.66 Regulations themselves. The second Consultation Paper is from the Standards Board for England and relates to draft guidance on how Monitoring Officers should carry out their investigatory role.

2. Recommendations

- 2.1 That the response to the OPDM Consultation Paper be as set out in **Appendix 2** to this report.
- 2.2 That the response to the Standards Board Consultation Paper be as set out in **Appendix 3** to this report.

3. Background

- 3.1 The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, which came into force on 30th June 2003, provide for the consideration by a Standards Committee of matters referred to it by an Ethical Standards Officer (ESO) employed by the Standards Board for England, following completion of an ESO's report on whether a Member has breached the Code of Conduct.

At its last meeting the Committee considered the Hearing Procedures Rules needed to implement these Regulations.

- 3.2 The Office of the Deputy Prime Minister (ODPM) has now issued a consultation paper seeking views on proposals to amend these Regulations. Such amendments will allow a Monitoring Officer to investigate allegations that a Member has breached the Code of Conduct referred to him by an ESO. The amended regulations will also enable Standards Committees to consider reports made by Monitoring Officers following these investigations and not just (as now), reports by ESOs. The intention is that the hearing and appeals procedures set out in the existing regulations would apply in the case of an investigation by a Monitoring Officer, as well as an investigation by an ESO.

- 3.3 The proposed regulations follow the coming into effect on 18th November 2003 of section 113 of the Local Government Act 2003, which gave a Monitoring Officer new powers to delegate his functions to a person nominated by him. Without this provision, the proposed regulations would not have been workable, since Monitoring Officers are the usual source of advice to Members, and in some cases conflicts of interest could have arisen if a Monitoring Officer had to investigate actions taken after he had provided advice on the same issue.
- 3.4 In parallel with the ODPM consultation, the Standards Board for England is also consulting on guidance to Monitoring Officers on how they should carry out their investigatory role.

4. **ODPM Consultation**

- 4.1 The ODPM is seeking general views of consultees on any issues raised by the draft regulations, and in particular on certain specific questions. A suggested response to the Consultation Paper is attached at **Appendix 2** to this report.

5. **Standards Board for England Consultation**

- 5.1 The Standards Board for England is preparing guidance for Monitoring Officers on carrying out local investigations under section 62 of the Local Government Act 2000. The guidance will be issued at the same time as the amendment regulations issued by the ODPM. The Standards Board's consultation exercise is only concerned with the guidance that it proposes to issue on cases referred back to Monitoring Officers by ESOs (and not guidance on local adjudications which have been dealt with in earlier guidance).
- 5.2 In addition to seeking comments on the general tone and content of the guidance, views are particularly sought on certain specific issues. A suggested response to the Consultation Paper is attached at **Appendix 3** to this report.

6. **Background papers**

None

7. **Appendices**

Appendix 1 – Consultation Papers issued by ODPM and the Standards Board for England.

Appendix 2- Suggested response to ODPM Consultation Paper.

Appendix 3 - Suggested response to Standards Board Consultation Paper.