

LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS (Min. 279/02)

1 SUMMARY

- 1.1 This report advises Members on the current position with regard to proposed regulations to permit local investigation and determination of misconduct allegations.

2 INTRODUCTION

- 2.1 Local Authorities were consulted in June 2002 by the Office of the Deputy Prime Minister (ODPM) on proposals to introduce regulations permitting local investigation and determination of misconduct allegations against Members. No formal feedback has been received from that consultation although indications are that such a change in legislation is imminent.
- 2.2 At a series of “road shows” in December the Standards Board for England confirmed that they had been in discussion with ODPM on draft regulations but that problems had been encountered that might require primary legislation. No further information was available.

3 THE CURRENT POSITION

- 3.1 It is understood that a meeting of various interested parties including ODPM, the Local Government Association and National Association of Local Councils took place on 10 March 2003 to discuss draft regulations.
- 3.2 From information received through the Association of Chartered Secretaries and Solicitors (ACSeS) the following matters were discussed. It has not been possible as yet to obtain a copy of the draft regulations and therefore the notes are repeated without commentary:

The Draft Regulations

i. an ability to avoid convening a meeting within the relevant time scale (3 months from receipt of a report by the Monitoring Officer) would allow authorities to avoid difficult cases, albeit at the risk of the Ethical Standards Officer taking the matter back and referring it to the Adjudication Panel

ii. the categories of findings by Standards Committees needed to reflect more closely the statutory scheme

iii. there is no restriction on the ability of a Standards Committee to consider a matter under its common law powers (*R v Broadlands ex p Lashly*) and ACSeS would not advise its members to avoid such proceedings.

iv. further clarification is required about the ability of Standards Committees to exclude access to information relating to 'Article 6' details of family, etc.

v. The Regulations could be made as early as April and in force by June 2003

vi. Further Regulations concerning Monitoring Officers would be available in confidential draft in May/June, but would not be laid before Parliament until October.

4 THE WAY FORWARD

- 4.1 Should regulations be introduced as early as April 2003 it will be necessary for this Committee to consider its new statutory role at the earliest convenience. Subject to the regulations, it will be necessary to develop rules of procedure for dealing with investigation and determination and in particular the approach to be taken to the conduct of hearings.
- 4.2 As soon as information is available, a briefing note will be sent to all Members of the Standards Committee. The Corporate Director (Law, Planning & Administration) will then prepare a draft procedure based on the regulations and make arrangements for an early meeting of the Committee to discuss these.

5 RECOMMENDATION

- 5.1 It is proposed that the Committee **RESOLVES**

to instruct the Corporate Director (Law, Planning & Administration) to prepare draft rules of procedure to be considered by the Standards Committee following publication of new regulations concerning local investigation and determination of misconduct. (CD(LP&A))

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Background Papers:

Email from ACSeS dated 24 March 2003

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