

Bulletin

Bulletin 10 2003



Section 66 dominates this Bulletin.

The statement, which you can read below, from the Office of the Deputy Prime Minister, demonstrates that real progress is now being made towards the Section 66 Regulations. Our Annual Assembly of Standards Committees, being held in Birmingham on 9 and 10 June 2003, will include the latest news on the Regulations. An opportunity to discuss and feed back on the Regulations and their implications is built into the event.

Space is limited and we strongly urge you to book as soon as possible. Details of the conference and how to book your place are included below.

Our recent roadshow programme has now concluded on a successful note in Nottingham. The roadshows have been a great opportunity to hear, at first hand, your views and concerns as the Code of Conduct moves beyond its implementation stage. Not surprisingly, many of your concerns centred on the absence of the Section 66 Regulations.

We hope the Office of the Deputy Prime Minister's commitment to deliver the first stage of those Regulations in April 2003 will bring us a step closer to addressing your concerns.

Allan Cairns, Chief Executive

Section 66 (Local Adjudication) Regulations

A note from the Office of the Deputy Prime Minister

The government placed the following statement in parliament on 27 February 2003.

Promoting high standards of ethical conduct among Councillors is one of the most important requirements for the strengthening of local

democracy and the building up of trust between people and their elected representatives. The Government is today laying an amendment to the Local Government Bill which will lead to new regulations allowing local authorities to play a more active role in dealing with cases of councillor misconduct.

The amendment has been prepared following an extensive consultation exercise last summer on the proposed regulatory framework which would

Bulletin

Bulletin 10 2003



allow local investigation of allegations and local hearings. Close consideration of more than 1,000 responses to that consultation led to the conclusion that a robust and workable set of regulations could not be made without changes to the primary legislation.

The Government now intends to issue regulations 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 ESOs and referred to the monitoring officer of the relevant authority under section 59 (4)(c) of the Local Government Act 2000. The intention is that these regulations will be laid before Parliament in early April. I understand that the Standards Board for England intend to publish guidance for local authorities on the operation of these regulations

The second set of regulations will provide for the conduct of investigations by monitoring officers, or their deputies, following a decision by an ESO to cease an investigation and refer the matters to the monitoring officer under section 60 (2)(b) of the Local Government Act 2000. Our intention is not to lay these regulations until a change has been made to the Local Government Act 2000 which would allow a monitoring officer to appoint another person to conduct an investigation, especially in circumstances where the monitoring officer might have a conflict of interest. The amendment which is being laid before Parliament today is designed to achieve this change. Subject to Parliament's enactment of the amendment, regulations dealing with investigations will be laid in the Autumn.

The Standards Board for England welcomes this statement from the Office of the Deputy Prime Minister. We will continue to work with the Office of the Deputy Prime Minister to achieve this timetable and we will report on progress in the next Bulletin.

It is our intention to publish guidance on local adjudications shortly after the Regulations come out. You will appreciate that it is impossible to issue a comprehensive guide until we have a final version of the Regulations. However, once the final version is issued, The Standards Board for England will publish as quickly as possible the most complete guidance available.

In the meantime, Standards Committees and their Monitoring Officers need to think about their training needs in relation to the Regulations. Many of the issues involved have already been discussed at our roadshows. These discussions were stimulating and Standards Committee representatives who were present may already have ideas about how they want to move forward.

In the meantime, Standards Committees and their Monitoring Officers need to think about their training needs in relation to the Regulations. Many of the issues involved have already been discussed at our roadshows. These discussions have been stimulating and Standards Committee representatives who attended may already have ideas about how they want to move forward.

Bulletin

Bulletin 10 2003



The Ethical Standards Officer's investigation

What information should a Monitoring Officer share with a Standards Committee about an Ethical Standards Officer's investigation?

The Standards Board for England recommends that when a Monitoring Officer is informed that an investigation is taking place, he or she should advise the relevant Standards Committee of the allegation. The Chair and the full committee can be told by means of an agenda item. The details concerning the allegation should be brief and include:

- the name of the complainant;
- the nature of the allegation; and
- the name of the member that the allegation has been made against.

In order not to prejudice the Standards Committee if the case is referred back to them under Section 59(4)(c) of the *Local Government Act 2000*, the Standards Committee should not discuss the allegation.

Once the case is closed, the Monitoring Officer can make available the Ethical Standards Officer's finding by providing the Standards Committee with The Standards Board for England's case summary.

For a full guide to the investigation process please visit our website at www.standardsboard.co.uk/complaints/investigation.php

Allegations addressed to the Standards Board from Monitoring Officers

A clarification

A letter that The Standards Board for England sent to Monitoring Officers earlier this year seems inadvertently to have caused some confusion. We would like to clarify the matter.

The *Local Government Act 2000* allows The Standards Board for England to consider only those allegations addressed directly to us.

Anybody can address an allegation to The Standards Board for England, including Monitoring Officers.

When a Monitoring Officer sends an allegation to The Standards Board for England, it should be made clear if it is on behalf of third party complainants or from the Monitoring Officer themselves.

If it is on behalf of a third party, then the Monitoring Officer must gain explicit consent from that party before he or she sends the allegation. Such consent must be apparent when the allegation is sent to The Standards Board for England. A clear statement from the Monitoring Officer that the allegation is made at the request of the complainant is sufficient.

If a Monitoring Officer steps into the shoes of the complainant and decides to make the allegation in his or her own name, then this also needs to be made clear when the allegation is sent to The Standards Board for England.

Bulletin

Bulletin 10 2003



The referrals process

Why allegations are not referred for investigation

By the end of February 2003, just over 57 per cent of allegations received by The Standards Board for England were not referred for investigation. The reasons for this are varied, but in general they form two categories.

First, there are those allegations that fall outside The Standards Board for England's jurisdiction. These include allegations concerning behaviour or events that predate the adoption by, or application to, an authority of the model Code of Conduct. This category also includes those allegations that do not name individual members of a relevant authority.

The second category includes those allegations that The Standards Board for England decides do not merit investigation. The majority of cases falling into this category are not referred for one of two reasons.

First, some allegations disclose no potential breach of the Code of Conduct.

In other cases, The Standards Board for England will not consider the allegation sufficiently serious to warrant a publicly-funded investigation. In making this decision, The Standards Board for England will consider how trivial the allegation is. It is sometimes obvious that the allegation is motivated by political point scoring, for example. There are other instances where, although the language complained of may not be entirely appropriate, The Standards Board for England will not consider the language used to be sufficiently serious as to warrant the expense of an investigation.

There is no statutory right of appeal where The Standards Board for England decides that an allegation should not be investigated.

The Standard Board for England's policy is to notify the member concerned, as well as the Monitoring Officer, and, if applicable, the Town or Parish Clerk, once we have made a decision on whether or not to refer an allegation.

Keeping you informed

The **Second Annual Assembly of Standards Committees** will be held at the International Conference Centre in Birmingham on the 9 -10 June 2003. This year's conference includes two days of specialised workshops on the practical implementation of the Code of Conduct for Standards Committees and Monitoring Officers. A number of keynote speakers have been invited and will present on topics ranging from the Section 66 Regulations to the nature and origin of ethics.

Monday 9 June 2003 will feature a session on the Section 66 Regulations. The afternoon will see David Marlow, Chief Executive of Doncaster Borough Council, and John Pitt, former Monitoring Officer at Doncaster, present 'Rebuilding Confidence – Doncaster's Story'. In the evening the National Association of Local Councils are hosting a fringe event entitled 'Parish Councils: The Future for Local Government'.

The highlights of the second day of the conference include 'The Big Debate', where Simon Hoggart of the Guardian, with other speakers, will debate on the nature and origin of ethics. The afternoon session features the *Guardian's* Kevin Maguire presenting 'Local Government Ethics: Three Boring Words?'

Bulletin

Bulletin 10 2003



Tony Holland, Chair of The Standards Board for England, will provide feedback on the various workshops held throughout the two days, before Parliamentary Under-Secretary of State, Chris Leslie, MP, presents 'The Government's View', where he will outline the government's vision for local democracy and its ethical environment.

Workshops running between the main sessions will feature: a debate entitled 'A Few Bad Apples?', between Tim Minogue of Private Eye and Roger Taylor, a Board member of The Standards Board for England; a session on the conflicting roles and responsibilities of the 'Multiple Monitoring Officer'; and 'Talking Softly', a session focusing on mediation and conciliation in resolving conflicts within authorities.

A copy of the programme and a booking form can be downloaded from our website at www.standardsboard.co.uk/events

Your questions answered

Do members need to re-register their interests if they are re-elected?

Yes. The Code of Conduct requires members to register their interests within 28 days of their election or appointment. However, where a member is re-elected, written confirmation that their interests have not changed would be acceptable. If their interests have changed then the changes would have to be recorded on the register of interests. Members have an ongoing obligation to keep their register of interests up to date. Failure to do so will constitute a breach of the Code of Conduct.