

MATTERS ARISING – FOLLOW UP FROM STANDARDS COMMITTEE – 1 OCTOBER 2012

SUBMITTED BY THE MONITORING OFFICER

I was asked by the Standards Committee to take a fresh look at the range of sanctions available to it under the new “Arrangements” following the investigation of member misconduct. The Committee were concerned that I have noted that for grouped members, their removal as a sanction from any sub-committee / scrutiny committee of the Council would be a matter for the Group whereas for ungrouped members this would be a matter that fell to full Council. The concern was that this discriminated against ungrouped members because their misdemeanour would be aired before full Council, whereas in other cases the sanction would be applied in the privacy of a group meeting. They queried, therefore, whether Council could delegate to the Standards Committee the power to remove a Councillor who had defaulted in breach of the Code of Conduct, from a committee/commission. The answer is not as simple as it sounds:

Firstly we have to be clear what appointments are actually made by Council and which are made by other limbs of the authority (City Mayor, Director of Delivery, Communications and Political Governance, Monitoring Officer, Groups, Group Whips etc). For example, appointments to the Police Authority are made by the City Mayor under our Constitution (Part 3). Appointments of members under joint arrangements with other local authorities are determined by the City Mayor (Article 12).

Miscellaneous appointments are the responsibility of Miranda Cannon in consultation with Group Whips (Part 3, para 16 of the Local Choice Functions). Appointments to Employees Committee are apparently made by the Monitoring Officer in consultation with the City Mayor or political Group Whips (Terms of Reference, Part 3 of the Constitution, page 53). Furthermore, whilst under Rule 35 of the Council Procedure Rules, committees and sub-committees, the appointment of chairs and vice-chairs, the identification of the number of total members and the terms of reference and the schedule of meetings are determined by full Council, the actual makeup of members of committees, other than the chair and vice chair, is not determined by full Council but by Groups. In the case of ungrouped members, we have recently had to face this dilemma and have not quite got this right. If they do not agree a reasonable allocation of seats between them, then ‘lots’ have been drawn in the past.

The point, however, is that all these other appointments are not ratified by full Council at any point and nor do they need to be. Therefore, if we are to propose the delegation of powers to the Standards Sub-committee we must logically only be able to delegate those powers which Council had in the first place (section 101 LGA 1972). These are limited as we can see from the above list.

In respect of the Committee’s other request which is that they be permitted to write to members or relevant appointing bodies for the recommendation of the removal of a member from a position of authority, I see no problem with this. A letter does not act as a decision and is no more than a different format of censure. It is still for the legitimate appointing body (be it City Mayor or a Group Whip etc) to make the ultimate decision about removal of a member. I also see nothing wrong in the

Committee writing to the individual members themselves exhorting them to withdraw from membership.

Coming back to ungrouped members, Council must have the power to remove regular (i.e. those who don't get an SRA) members from a committee (bearing in mind what is mentioned above about who appoints in the first place) because fundamentally the committees are committees of Council. Council can arrange for the discharge of its functions by a committee or subcommittee (s.101 LGA 1972 and specifically in relation to Standards by s.54 Local Government Act 2000). There is a point about parity of treatment of ungrouped members, and perhaps this can be dealt with by requiring that even removals by Groups are reported to Full Council?

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1 November 2012