

Item 5

REPORT TO CABINET

9TH DECEMBER 2004

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

INTRODUCTION OF CHANGES TO THE ETHICAL STANDARDS ARRANGEMENTS UNDER THE LOCAL GOVERNMENT ACT 2000: THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004 AND THE STANDARDS BOARD FOR ENGLAND (FUNCTIONS) ORDER 2004

1. SUMMARY

- 1.1 This Report appraises the Council of further changes to the ethical standards framework for member conduct. New Regulations enable the Standards Board's officers to refer cases to the Council's Monitoring Officer for investigation. Further guidance will be issued as to the procedures to be followed.
- 1.2 Changes are also introduced to the procedure of Standards Committee meetings to facilitate the appropriate consideration of reports under the new arrangements.
- 1.3 It is likely that these changes will have staffing and other resource implications and further reports will follow as guidance becomes available.

2. RECOMMENDATIONS

- 2.1 That Cabinet considers and notes the Report.
- 2.2 To note that Standards Committee shall consider the Report and offer recommendations to full Council.
- 2.3 To note that full Council shall consider the Report and approve the same and delegate responsibility to the Monitoring Officer to amend the Constitution to take account of the changes.
- 2.4 That the Monitoring Officer appraises Members of these changes and all subsequent guidance when available.

3. DETAIL

- 3.1 This report considers the major changes implemented with effect from the 4th November 2004 to the Standards framework for Members, originally introduced by Part III of the Local Government Act 2000 (the Act).

- 3.2 Previous reports were made to Council upon the implementation of Part III of the Act that introduced a new regime to govern the standards of conduct expected by members of Local Authorities. The Standards Board for England was established under Section 57 of that Act to carry out statutory functions, including investigations of alleged member misconduct.
- 3.3 The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, prescribed the procedures that Standards Committees of Authorities must follow in dealing with completed reports referred to them by the Board's Ethical Standards Officers.
- 3.4 These new regulations, the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004, amend the 2003 Regulations further. The effect of the amendments is to prescribe the procedures that Monitoring Officers must follow in dealing with allegations referred to them for investigation by the Board and those procedures that Standards Committees must follow in dealing with reports referred to them by Monitoring Officers.
- 3.5 In effect, these regulations complete the scheme for the local determination of alleged breaches of an Authority's Code of Conduct. In addition, the new Order confers on the Standards Board for England, additional functions relating to the issuing of guidance to Monitoring Officers and to Standards Committees upon the exercise of these new functions.
- 3.6 The policy objective of the Standards Board for England Order 2004 is to enable the Board to issue guidance to Monitoring Officers and to Standards Committees. The Order will also enable the Board to issue guidance to assist Local Authorities' Standards Committees in carrying out their new functions, including the implementation provisions relating to the consideration of reports issued by Monitoring Officers following their investigations.
- 3.7 The key change is that Ethical Standards Officers may now decide not to carry out full investigations of cases referred to them, but instead refer the matters direct to the Monitoring Officer to investigate. He or she will then be required to report to the Authority's Standards Committee.
- 3.8 Since Monitoring Officers are the usual sources of advice to members, the new regulations recognise that conflicts of interest could arise if a Monitoring Officer had to investigate actions taken after he had provided advice to the member on the same issue. Section 82A of the Local Government Act 2000 (which has been added by the Local Government Act 2003) will enable the Monitoring Officer to nominate someone else to carry out such investigations in those instances.
- 3.9 The new regulations also amend the Relevant Authorities (Standards Committee) Regulations 2001 and which relate to access to meetings and documents. The changes specifically relate to meetings of Standards Committees. The 2003 Regulations have already amended the 2001 Regulations so as to apply Part V(A) provisions to meetings where a Standards Committee is considering a report referred to it by an Ethical Standards Officer. The new regulations make further amendment so as to apply the Part V(A) provisions to meetings where a Standards Committee is considering a report referred to it by a Monitoring Officer.

- 3.10 The new regulations also modify the effect of Section 63 of the Act. Section 63 prohibits the disclosure of any information obtained by an Ethical Standards Officer in the course of an investigation, except in certain circumstances. The 2003 regulations modified the section so as to provide that such information may be disclosed for the purposes of enabling a Standards Committee to carry out its functions. These regulations further modify Section 63 to provide that such information may also be disclosed for the purposes of enabling Monitoring Officers to carry out those functions.

4. RESOURCE IMPLICATIONS

- 4.1 These changes follow on from a series of additional responsibilities assigned to Monitoring Officers since the Act was implemented in 2000: duties in advising the Standards Committee upon its functions increased as a result of the 2003 Regulations. These provisions again add a responsibility to conduct investigations and, where appropriate, nominate a person to substitute for him.
- 4.2 A further Report upon staffing and resource implications will follow once the Standards Board has issued guidance.

5. CONSULTATION

- 5.1 This Report has been considered by the Council's Management Team.
- 5.2 It is intended that both Council and Parish Members will be fully appraised of the impact of the new regulations and guidance as it becomes available. Published guidance has been issued to members, including the Standards Committee, and has been posted to the Council's website.

6. OTHER MATERIAL CONSIDERATIONS

- 6.1 These new provisions will give rise to Constitutional changes which will necessitate approvals from the Standards Committee and full Council.

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Background Papers

The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004
The Standards Board for England (Functions) Order 2004

Examination by Statutory Officers

| | Yes | Not Applicable |
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| 1. The report has been examined by the Councils Head of the Paid Service or his representative | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. The content has been examined by the Councils S.151 Officer or his representative | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. The content has been examined by the Council's Monitoring Officer or his representative | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. The report has been approved by Management Team | <input checked="" type="checkbox"/> | <input type="checkbox"/> |