

STANDARDS COMMITTEE - 4th APRIL 2005

REVIEW OF MEMBERS' CODE OF CONDUCT

REPORT OF THE MONITORING OFFICER

1. PURPOSE

- 1.1. To consider a response to the Standards Board for England on their consultation questionnaire reviewing the Members' Code of Conduct.

2. BACKGROUND

- 2.1. The Standards Board for England is currently undertaking a review of the Members' Code of Conduct.
- 2.2. The Standards Board issued a consultation paper on the 18th February 2005 and a copy is attached at Appendix 1.
- 2.3. The consultation paper was circulated to each member of the Standards Committee and the group leaders on the 1st March 2005 to maximise the opportunity for internal consultation to feed into the discussion at this meeting of the Standards Committee.
- 2.4. The limitations of the Members' Code of Conduct have already been well rehearsed. Particular concern has been raised about: -
 - the whistle-blowing obligation in paragraph 7 which requires a member to report another member if they reasonably believe that that member is in breach of the Code. The national picture strongly suggests that this requirement has been abused and that complaints have been made for purely party political or personal purposes
 - the definition of friend
 - the definition of a prejudicial interest where the interest only arises because the member belongs to an external public body to which they have been appointed by the Council.
- 2.5. In addition the following issues have been raised by the Council with the Standards Board: -
 - Can an elected member who is also a solicitor represent an applicant for a licence before the Licensing and Safety or Taxis Committee? This arose from a decision of the Adjudication Panel for England in November 2004 when it was determined that an elected member who is also a solicitor has a prejudicial interest if they attend a meeting to represent a client who is applying for a licence. The same principle would apply to planning applications.

- The response of the Standards Board is that a member in these circumstances does have a prejudicial interest.
- What would happen if an elected member was also, for example, a licensed private hire driver or the holder of a public entertainment license granted by the Council? If the member concerned was required by the relevant committee to attend before them, would they have to declare a prejudicial interest and leave the meeting which, of course, would defeat the whole object of the hearing? A response from the Standards Board is awaited on this issue.
- If the whistle-blowing provision in paragraph 7 of the Code is to survive, we have proposed that no member should make a referral until they have taken the matter up directly with the member who is the subject of the proposed complaint. If the member is satisfied with the explanation given there will be no need to report to the Standards Board but, if otherwise, there will be a report and the member would be obliged to say why they are not satisfied with the explanation provided.

This process would ensure that the member has reasonable grounds for the complaint and should help to weed out trivial issues and complaints which are based on a misunderstanding of the facts.

- If paragraph 7 survives, the Standards Committee has previously taken the view that the Standards Board should place an embargo upon publicising the fact that a complaint has been made or is under investigation. This is a particular concern when a complaint is politically motivated and it is disclosed to the Press to gain some party political advantage, especially in the run-up to a local election.
- Furthermore, if a member whistle-blows without a reasonable cause e.g. the complaint is spurious, vexatious or malicious, the Standards Committee has expressed the view that not only should the complaint be dismissed but the member making the complaint should be deemed to be in breach of the Code for contravening paragraph 7 itself and paragraph 4 (i.e. bringing their office of authority into disrepute).

The view of the Standards Committee is that this would provide an effective sanction against the misuse of the whistle-blowing requirement.

3. PROPOSAL

- 3.1. It is proposed that the Standards Committee consider the consultation paper issued by the Standards Board for England and determine an appropriate response.

4. FINANCE

- 4.1. There are no financial implications arising from this report.

5. LAW

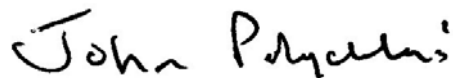
- 5.1. The relevant provisions regarding the Members' Code of Conduct are contained in Part III of the Local Government Act 2000 and Regulations made by the Secretary of State.

6. EQUAL OPPORTUNITIES

- 6.1. This report complies fully with the Council's policies with regard to equality and diversity.

7. RECOMMENDATION

- 7.1. It is recommended that the Standards Committee consider the consultation paper issued by the Standards Board for England and determine an appropriate response.



JOHN POLYCHRONAKIS
Monitoring Officer

Contact Officers: John Polychronakis, (01384) 815300
e-mail: john.polychronakis@dudley.gov.uk

BACKGROUND PAPERS

1. None