

REPORT OF THE CLERK

UPDATE ON CHANGES TO THE CODE OF CONDUCT AND THE PROCESSING OF COMPLAINTS

1 Purpose of Report

To inform the Committee of the contents of the report “Standards of Conduct in English Local Government: The Future”, recently published by the Office of the Deputy Prime Minister. That report sets out changes to be made both to the Code of Conduct for Members and the procedures for dealing with complaints that Members have breached the Code.

2 Recommendations

Members are asked to:

- a) Note the report; and
- b) Receive further updates from the Clerk with regard to further developments.

3 Background

The Office of the Deputy Prime Minister (ODPM) has released a report setting out its response to the recommendations made by the Standards Board for England for the changes to the Code of Conduct for Members. The ODPM has also addressed issues raised in the Tenth Report from the Committee for Standards in Public Life and will be seeking to implement changes that will affect the work undertaken by this Committee.

In March 2005, Members were presented with a report setting out recommendations made by Sir Alistair Graham, the Chair of the Committee for Standards in Public Life. This was the tenth report produced by the Committee and it made a number of recommendations, including a review of the Code of Conduct for Members and also changes to the way in which complaints against Members (in relation to a possible breach of the Code of Conduct) were processed.



4 Standards Board Consultation

The Standards Board for England undertook a consultation process during the summer of 2005 in relation to possible changes to the Code of Conduct and this Committee was involved in formulating the Fire Authority's consultation response. Subsequently, the Standards Board for England made a number of recommendations to ministers regarding changes to the Code of Conduct. A summary of those suggestions was contained in a report considered by this Committee at its meeting on 12 October 2005.

The ODPM has now produced a report in response to the recommendations made in Chapter 3 of the Tenth Report of the Committee for Standards in Public Life, and in relation to the recommendations of its own Select Committee, which also produced a report during summer 2005.

The Government has, in most cases, accepted the recommendations made by Sir Alistair Graham in his report. A summary of the main points is set out below:

- a) Parish councils should continue to be subject to the conduct regime for Local Government.
- b) The initial assessment of allegations against local authority Members should be undertaken by the local authorities and not by the Standards Board for England. Certain allegations, particularly of a serious nature, or of national significance, will continue to be investigated by the Board.
- c) The Chairman of Standards Committees should be an Independent Member.
- d) The whistle blowing provision will be deleted from the Code of Conduct, which should discourage some trivial complaints.
- e) The ten general principles of public life should be included as preamble or an annex to the Code of Conduct to provide extra context for understanding the Code. The ten principles relate to selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others and a duty to uphold the law, stewardship and leadership.
- f) Conduct which will continue to be subject to the Code in relation to Member conduct in their private lives will be restricted only to matters, which would be regarded as unlawful.
- g) The Government wishes to maintain the fact that failure to register an interest should not necessarily be a breach of the Code in every circumstance.
- h) The rules relating to a Member's involvement, where they have a personal and prejudicial interest will be amended. The Government will amend the Code to include the following:
 - A narrowing of the definition of personal interest, which Members are required to declare;
 - A requirement for Members to declare their interest at the point where they speak on a relevant issue; and
 - When Members have a prejudicial interest in a matter, they will be able to speak at the meeting but withdraw before the vote.



- i) The Standards Board for England will be asked to provide the appropriate guidance and training materials for Standards Committees with regard to their new responsibilities for more locally based decision making. The Board will also be asked to look at recruitment practices so the right skills and resources are available for Monitoring Officers and Standards Committees to be able to do their job.
- j) The Standards Board will be encouraged to continue to support and maintain regional support networks for Monitoring Officers and Standards Committees.

5 Office of the Deputy Prime Minister's Report

The full report prepared by the Office of the Deputy Prime Minister (ODPM) is lengthy. As well as setting out recommendations it also replies to the ODPM Select Committee report. Amongst the comments made, there is recognition of the Standards Board for England's impressive improvements in case handling over the last year and a half. There is an acceptance that the delay in bringing in regulations, following the introduction of the Local Government Act 2000, resulted in a high workload for the Standards Board. There is also recognition that implementation of further measures to improve efficiency is required, to ensure that decision making is undertaken in a timely, but thorough, way.

In respect of the proposal that initial consideration of complaints takes place locally, the report states that the ODPM believes this would encourage local ownership of standards and allow local knowledge and sensitivities to be more easily reflected in the handling of cases.

The main aim to the changes is set out as follows:

- To maintain high standards of conduct for local authority Members and employees;
- To define effectively what standards of conduct are expected of Members and officers;
- For such rules to be sound and clear;
- For an effective means of taking action, when breaches of the rules occur;
- For such means to be fair, clear, proportionate, rigorous and thorough; and
- To ensure measures are in place to guarantee public confidence in the appropriateness of the ethical regime.

In addition to changes that are set out in the report, there is also reference to aspects of the current ethical standards regime, which will remain the same. The most significant aspects are set out below:

- There is no proposal for the names of complainants to be made public;
- Parish councillors should continue to be subject to the conduct regime for Local Government;
- The imposition of penalties on people making malicious complaints would not be beneficial to the overall regime and would give a disincentive to those with legitimate complaints from coming forward with their allegations; and
- There will be no specific provision added to the Code in respect of raising false allegations, given the effect such a measure would be likely to have in discouraging Members from bringing forward substantive allegations.



The report sets out that the Office of the Deputy Prime Minister intends the legislative changes required (to bring in the changes set out above) will be sought at the next convenient opportunity that parliamentary time allows.

6 Legal Comment

The changes proposed by the Government report will require new legislation. If the Government seeks to make these changes during the current parliamentary session, the legislation may be in place by summer 2006. However, preparation for changes in the system for the processing of complaints could mean that there is a requirement for consultation, training etc, which means that there will be a further period before the changes take effect. As yet there is no timetable setting out when the changes will be put in place.

7 Financial Implications

It is anticipated the proposed changes may have some financial impact but at this early stage the level can not be quantified and further investigation will be required when the Government finalises the legislation.

8 Equality and Diversity Implications

Equal opportunities for all in relation both to the application of the Code of Conduct and the complaints process are maintained within the proposed changes set out in the ODPM report.

9 Appendices

There are no appendices attached to this report.

10 Background Papers

Office of the Deputy Prime Minister

Standards of Conduct in English Local Government: The Future

Shropshire and Wrekin Fire Authority Standards Committee

7 March 2005 Report 13 – Summary of Report of the Committee on standards in Public Life

12 October 2005 Report 8 – Fourth Assembly of Standards Committees

For further information about this report please contact Susan Kembrey, Clerk and Monitoring Officer, on 01952 202461.

