

## **CONSULTATION PAPER - LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS**

### **1 SUMMARY**

- 1.1 This Report is to bring to Members' attention the DTLR Consultation Paper received on 24 May 2002 entitled "Conduct of Councillors - Local Investigation and Determination of Misconduct Allegations" responses to which are sought by the 1 July 2002.
- 1.2 A copy of the Consultation paper is appended.

### **2 BACKGROUND**

- 2.1 The Local Government Act 2002 introduced a new Ethical Framework for Local Government and provides for the Standards Board for England to investigate allegations that the Code of Conduct has been breached.
- 2.2 The Standards Board can in certain circumstances refer complaints of misconduct to the Council for local determination.
- 2.3 The consultation paper sets out proposals for the manner in which a Council's Standards Committee should deal with such matters. It also provides details of the role of the Standards Board and the inter-relationship between the Board, the Standards Committee and the Monitoring Officer.
- 2.4 Five principles are suggested which should underpin any independent adjudication. These are:-
  - The preservation of public trust in the new Ethical Framework.
  - The avoidance of duplication
  - The rights of individuals against whom complaints are made.
  - Appropriate and proportionate sanctions
  - A recognition of the different circumstances in which referrals are made.

**3 COMMENTS ON THE PROPOSALS**

- 3.1 The Standards Board will have a central role in deciding how allegations are handled. It is proposed that all complaints would be referred, in the first instance to the Board. At this stage the Monitoring Officer and Standards Committee would have no role to investigate or endeavour to resolve complaints.
- 3.2 Whilst this may provide consistency to the process Members may consider that trivial and misconceived complaints might be better addressed at the outset by the Standards Committee or the Monitoring Officer, thereby avoiding duplication of effort and delay in the resolution of matters that can be appropriately dealt with at a local level.
- 3.3 Where the Board refers a matter to the Monitoring Officer the proposed powers of investigation and enquiry do not include specific sanctions for non co-operation. This may serve to limit the effectiveness of the investigations and the information available to the Standards Committee to discharge its function. Further difficulties may arise in the position of the Monitoring Officer as both Investigator and Adviser to the Standards Committee and it may be appropriate in certain cases for the one task to be delegated to another officer.
- 3.4 The powers available to the Standards Committee in determining a complaint are prescribed and include censure; removal from office, position or committee; suspension and public apology. The main issue is whether the powers are wide enough to provide adequate sanctions to enable the Standards Committee to fulfil its function. Whilst prescriptive the sanctions do provide a measure of flexibility and would appear to be sufficient.
- 3.5 A right of appeal lies to a national adjudication tribunal against a finding of the Standards Committee but pending the appeal there is no guidance as to whether any sanction imposed will take effect and the position requires clarification.

**4 RESOURCE IMPLICATIONS**

- 4.1 The expense of any proceedings arising from the discharge of the Standards Committees functions it is proposed should be met by the Council. There will be resource implications in officer time associated with these responsibilities dependent on the level of complaints and referrals by the Standards Board.

**5 LEGAL IMPLICATIONS**

- 5.1 Regulations are required pursuant to Local Government Act 2000 in order to implement the proposals.

**6 PARISH IMPLICATIONS**

- 6.1 The code of conduct applies equally to Parish councillors and Parishes have been similarly consulted by the DTLR on the proposals.

**7 RECOMMENDATION**

It is proposed that the Committee considers the consultation paper and determines a response.

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**Background Papers:**

Consultation paper from DTLR dated May 2002.

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