

<i>COMMITTEE</i>	STANDARDS COMMITTEE
<i>DATE</i>	THURSDAY 27 JUNE 2002
<i>TITLE OF REPORT</i>	CONSULTATION PROPOSED LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS
<i>RESPONSIBLE OFFICER</i>	Mark Bowen, Assistant Director, Legal and Contract Services

1. SUMMARY

- 1.1 The Local Government Act 2000 (the act) introduced a new ethical framework for local government. All local authorities were required to adopt a code of conduct. Members of those authorities must give an undertaking to comply with the adopted code. Medway adopted its code of conduct on 17 April 2002.
- 1.2 A new independent body – The Standards Board has been set up to deal with complaints that a member has broken the provisions of a local authorities code of conduct.
- 1.3 On the 20 May the then Department of Transport Local Government and the Regions (DTLR) issued a consultation paper on Local Investigation and Determination of Misconduct allegations as a precursor to the introduction of regulations extending the powers and responsibilities of the Standards Board for England, standards committees and monitoring officers.

2. DECISION ISSUES

- 2.1 The terms of reference of the standards committee includes the promotion and maintenance of high standards of conduct by councillors, co-opted members and church and parent governor representatives.
- 2.2 The Committee's terms of reference also extend to Parish Councils.

3. BACKGROUND

- 3.1 At present where the Standards Board receive a complaint on the conduct of a member of a local authority which they consider should be investigated, the complaint is passed on to an Ethical Standards Officer (ESO). An ESO on concluding an investigation may reach one of four findings
 - that there is no evidence of any failure to comply with the code of conduct

- that no action needs to be taken in respect of the allegation
 - that the matters under investigation should be referred to the monitoring authority of the relevant authority
 - that the matters under investigation should be referred to the Adjudication Panel for adjudication by tribunal.
- 3.2 The Standards Board has stated that complaints will not be referred back for local determination until regulations are in place to allow this. The Act includes the power for the Secretary of State to extend the powers of the Standards Board, standards committees and the monitoring officer.
- 3.3 A consultation paper was issued by DTLR on 20 May and the Government proposes to make regulations and an order under the Act to implement the framework described in the consultation paper.
- 3.4 The Consultation Paper sets out five principles which the Government believes should underpin any system of investigation and adjudication and seeks views on whether these are the right principles. The five principles 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, and
 - a recognition of the different circumstances in which referrals are made.
- 3.5 The consultation paper identifies a proposed framework of how the local investigation and determination of misconduct allegations could work.
- There are specific proposals on identifying, advising on and receiving complaints by the Monitoring Officer at a local level and passing complaints on to the Standards Board for determination
 - A process of formal investigation by an Ethical Standards Officer at the Standards Board
 - Where appropriate referral of matters back to the Monitoring Officer/Standards Committee for consideration
 - The remedies which are available where it is considered a member has breached the code
 - Provisions on appeal against the decisions of a Standards Committee.

3.6 The consultation paper also asks a number of specific questions as well as inviting general comments.

3.7 The response to the Consultation paper is required by 1 July and a proposed response is appended to this report. Broadly, the proposals in the consultation paper are welcomed. However, in summary it is felt that there should be more emphasis on informal settlement where it is appropriate and local handling of complaints.

4. RECOMMENDATIONS

4.1 That the Committee endorses the proposed response and authorises the monitoring officer to submit it in response to the consultation on behalf of the Council.

5. LEGAL IMPLICATIONS

5.1 The legal implications are set out in the body of the report.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from this report.