

Report to Standards Committee

**CHANGES TO THE ETHICAL STANDARDS REGIME:
PROPOSALS IN THE LOCAL GOVERNMENT WHITE PAPER AND THE LOCAL
GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL 2006**

21 February 2007

Key Issue

To inform the Committee of proposed changes to the ethical standards regime

Introduction

1. The Local Government White Paper ("*Strong and Prosperous Communities*") was published in October 2006. It heralded some intended changes to the local government ethical standards regime, and these have now been published in Part 9 of the Local Government and Public Involvement Bill 2006 which was introduced to parliament in December 2006. It is intended that this will receive Royal Assent by the Autumn of 2007.
2. At the heart of the proposals is the view that communities and their representatives should be able to set and enforce the standards of behaviour and rules affecting their localities for themselves.
3. The White Paper acknowledges that the UK has a strong reputation for high standards in public life and that it is important for the future well-being of local government that this is maintained. The *Graham Committee on Standards in Public Life* reported in 2005 that the vast majority of councillors observe high standards of conduct. It also concluded that such standards would be more likely to be guaranteed if decision making on conduct issues was devolved to the greatest extent possible to the local level.

The Local Government and Public Involvement in Health Bill

4. Following its consultation on ethical standards in December 2005 the Government has decided to legislate to deliver firstly, a more locally-based regime, with local standards committees dealing with the majority of matters at a local level and secondly, a revised strategic regulatory role for the Standards Board to provide supervision, support and guidance for local authorities and ensure consistent standards. The measures set out in the Bill provide for local standards committees to make initial assessments of misconduct allegations and for review arrangements for those assessments which lead to no action being taken. The provisions also give

powers for the Standards Board to suspend a standards committee's role in making initial assessments of allegations, and for the Board to issue guidance to standards committees and ethical standards officers. Provision is also made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as now, by the Independent Adjudicator. These changes are intended to be introduced from April 2008

5. The relevant changes as set out in the Bill are detailed below:

Conduct of Local Authority Members: assessment of allegations

Clause 131 - Conduct that may be covered by code

This clause makes amendments to sections 49-52 of the Local Government Act 2000 to provide that the principles which govern the conduct of members and co-opted members of relevant authorities and the provisions of the code of conduct which they are required to follow, are not limited only to members' conduct in their official capacity. This is presumably in response to the High Court decision in the Livingstone case.

Clause 132 - Assessment of allegations

This clause inserts section 57A of the Local Government Act 2000 which provides for individual local standards committees of authorities to undertake the role currently exercised by the Standards Board for England of conducting the initial assessment of allegations of misconduct which relate to one of their members or co-opted members. It sets out the courses of action open to a standards committee where such an allegation is received. The options are:

- to refer the allegation to the authority's monitoring officer for consideration;
- to refer the allegation to the Standards Board; or
- to take no action in respect of the complaint.

It also provides that a standards committee has discretion, where the subject of the allegation is no longer a member or co-opted member of the authority in question and has moved to another relevant authority, to refer the allegation to the monitoring officer of the member's current local authority.

The clause requires that, if a standards committee decides to take no action over an allegation, it should write to the person who made the allegation informing them of the decision and the reasons for this.

It also makes provision for the Standards Board to issue guidance and give directions to a standards committee with respect to the exercise of these procedures.

It inserts section 57B to the Local Government Act 2000, to provide, where a standards committee of an authority has made a decision that no action should be taken regarding an allegation, for the person who made the allegation to be able to ask the standards committee to review its decision. The request for review must be made within 30 days of the date of the notice of the original decision. Following receipt of such a request, the standards committee must undertake a new assessment of the allegation.

The clause also inserts section 57C to the Local Government Act 2000, to enable the Standards Board to direct that a standards committee's power to undertake initial assessments of misconduct allegations should be suspended, and to direct that any allegations the standards committee receives must be referred either to the Standards Board or to a specified standards committee of another authority. The clause provides a power for the Secretary of State to make regulations concerning the circumstances in which the Standards Board can exercise this power, and also for the Standards Board to issue relevant guidance.

A new section 58 sets out the courses of action open to the Standards Board when an allegation is referred to it for consideration. The Standards Board must either refer the allegation to an ethical standards officer of the Board, or decide that no action should be taken, or refer the matter back to the relevant local standards committee. Where it decides to take no action, it should write to the person making the allegation of the decision and the reasons for the decision.

Clause 133 - Information to be provided to Standards Board by relevant authority

This clause requires a standards committee of an authority to furnish the Standards Board with periodic information on the allegations of misconduct it has received, any requests received to review its decisions to take no action in respect of allegations, and the exercise of any functions by the standards committee or the monitoring officer. The authority must comply with the request for information by such date as the Standards Board may specify.

Clause 134 - Chairmen of standards committees

Section 53(4) of the Local Government Act 2000 is to be amended to provide that standards committees of authorities should be chaired by a person who is neither a member nor an officer of a relevant authority.

Clause 135 - Sub-committees of standards committees

This provides that a standards committee may appoint a sub-committee to undertake any of its functions, including any functions concerning parishes.

Clause 137 - Standards Board for England: functions

This clause amends section 57(5) of the Local Government Act 2000 and Schedule 4 of that Act to provide that the Standards Board may issue guidance to ethical standards officers with respect to the exercise of their functions, and to enable the Board to be able to take action to facilitate the functions of standards committees or monitoring officers.

Clause 138 - Ethical standards officers: investigations and findings

Amendments to sections 59 and 62 of the 2000 Act are proposed, altering the description of two of the findings which an ethical standards officer can make and providing that his access to documents will not be limited, as now, to documents relating to a relevant authority. It also extends section 63 to provide that information obtained by an ethical standards officer in the course of an investigation may be disclosed where the disclosure is made to allow the monitoring officer to carry out his duties or it is made to the Commissioner for Local Administration or to the Electoral Commission for the purpose of their functions. An order making power is also provided for the Secretary of State to allow for such disclosures to be made to other people.

Clause 139 - Ethical standards officers: reports etc

This clause amends sections 64 and 65 of the Local Government Act 2000 to provide that a report by an ethical standards officer on the outcome of his investigation can be passed to the relevant standards committee in order to assist it in carrying out its functions.

Clause 140 - Disclosure by monitoring officers of ethical standards officers' reports

A new section 65A of the 2000 Act is proposed to provide for a monitoring officer to inform any member or officer of an authority of the outcome of an ethical standards officer's investigation into an allegation, and also to furnish them with a copy of the report or any part of it where this will help to promote high standards of conduct by members and co-opted members of the authority.

Clause 141 - Matters referred to monitoring officers

This clause amends section 66 of the Local Government Act 2000, to provide for regulations to enable a monitoring officer to refer back cases referred to him by a standards committee and set out the circumstances in which such a referral back may be made. Regulations may make provision with regard to access to and disclosure of information.

Clause 142 - References to Adjudication Panel for action in respect of misconduct

A new section 66A is intended to be inserted, which provides for regulations to be issued in respect of the referral by standards committees of a case to the Standards Board's Adjudication Panel where it considers the sanction available to it would be insufficient. The Adjudication Panel's members will then decide what sanction, if any, should be imposed against the person.

Clause 143 - Consultation with ombudsmen

This clause extends to standards committees the provisions in section 67 of the Local Government Act 2000 to provide that the Local Government Ombudsman may consult the standards committee (as well as the Standards Board) about a case if he believes that the complaint he is considering relates partly to a matter which may be of concern to the committee.

Employees

Clause 149 - Politically restricted posts: grant and supervision of exemptions

The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a member of a local authority if he holds a politically restricted post. This clause amends the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of the standards committee of each local authority in England, rather than that of the Independent Adjudicator.

RECOMMENDATIONS:

That the Committee notes this report

REASONS FOR RECOMMENDATIONS

To inform the Committee of the current proposals for legislative change to the ethical standards regime and to the responsibility of standards committees

Allan Wells
Legal Professional Team Manager

Background Papers

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“Strong and Prosperous Communities –the Local Government White paper”

October 2006 Dept for Communities and Local Government

<http://www.communities.gov.uk/index.asp?id=1137789>

and the Implementation Plan January 2007

http://www.communities.gov.uk/pub/703/ImplementationPlanTheLocalGovernmentWhitePaper_id1505703.pdf

Local Government and Public Involvement in Health Bill 2006

www.publications.parliament.uk/pa/pabills/200607/local_government_and_public_involvement_in_health.htm

and the Explanatory Note

http://www.publications.parliament.uk/pa/cm200607/cmbills/016/en/index_016.htm