

**HERTFORDSHIRE COUNTY COUNCIL
TUESDAY 18 MAY 2004 at 10.30 a.m.**

REPORT FROM THE STANDARDS COMMITTEE – 12 MARCH 2004

1. Monitoring the Code of Conduct

The County Council adopted the local Code of Conduct at its meeting on 14 February 2002, and the Standards Committee agreed that they would monitor its implementation on an annual basis.

Since the Committee last received a report monitoring the implementation of the Code (February 2003) several members have made amendments to their entries in the Register of interests, particularly to include their membership of a political party, and of organisations of local councillors with political affiliations.

The Monitoring Officer has also made members aware of new guidance from the Standards Board about the need for members who are Freemasons to record that on the Register.

At Council and Committee meetings there have been eleven declarations of interest since February 2003. (Six personal where the members stayed in the meeting, and five prejudicial where the members withdrew). There had been five (four personal and one prejudicial) in the year up to February 2003.

Since February 2003 there have been no notifications from the Standards Board of investigations into complaints against members.

2. Local Handling of Complaints

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 made under Section 66 of the Local Government Act 2000 came into force on 30 June 2003. They enable an Ethical Standards Officer (ESO) who has conducted an investigation into a complaint and completed a report on it to refer the report to the Monitoring Officer (MO) for consideration by the Standards Committee. The Regulations specify the sanctions which the Committee can impose if they find that the Code of Conduct has been breached.

The government announced that further Regulations would be made which would enable the Standards Board to refer complaints to the MO for investigation and report to the Standards Committee.

The Government has now issued a consultation document on further draft Regulations about local handling of complaints, and draft guidance to Monitoring Officers on local investigation of allegations of member misconduct.

2.1 Local Authorities (Code on Conduct) (Local Determination) (Amendment) Regulations 2004

Principally, the draft Regulations provide for amending the 2003 Regulations as follows:-

- They make provision for procedures to allow MOs to conduct investigations. The MO will be allowed to make one of two findings following an investigation: either that there has been a failure to comply with the code or that there has not.
- They allow the MO to refer a matter back to the ESO under certain defined circumstances.
- They require the MO to report his findings to the Standards Committee. If he finds there has been a failure to comply then the Standards Committee will be obliged to hold a hearing. If not the Committee would be able either to accept the MO's recommendation, or to disagree and hold a hearing.
- They confirm that procedures for Committee hearings on matters referred by the MO would be the same as those for matters currently referred direct to them from an ESO.
- They list the sanctions open to the Standards Committee.
- They make it clear that a nominated deputy can act should the MO be absent.

The Committee have made the following comments to the Government on these proposals:-

The Committee:

- (i) were concerned that the powers it was proposed to give to Monitoring Officers were less than those currently enjoyed by Ethical Standards Officers. In the Committee's view the powers should, as far as possible, be the same;
- (ii) felt that the powers proposed for Standards Committees to consider reports referred to them by the Monitoring Officer were necessary and sufficient;

- (iii) felt that all cases investigated by the MO should be referred to the Standards Committee;
- (iv) felt that MOs should be able to refer cases back to the ESO, but that the grounds for doing so should not be over prescriptive. Their view was that guidance to MOs on how to conduct investigations was unnecessary;
- (v) felt that the balance between the action required of MOs and the Standards Board's proposed guidance to MOs was appropriate.

2.2 Draft Guidance to Monitoring Officers: Local Investigation of Allegations of Misconduct

The Committee have also looked at draft Guidance to Monitoring Officers when undertaking a local investigation and have made comments on these to the Government by way of response.

PHILIP AYLETT, Chairman
Hertfordshire County Council Standards Committee
12 March 2004