

LOCAL GOVERNMENT ACT 2000

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1. Purpose

- 1.1 To inform the Committee of the requirements of the Local Government Act 2000 which introduces the ethical framework for local government members and officers largely as set out in the draft Bill circulated by the Government for consultation last year. The majority of the ethical provisions may come into force on 1 April 2001.

2. Summary

- 2.1 The Local Government Act 2000 received Royal assent on 28 July 2000.

The Local Government Act 2000 makes the Council responsible for the promotion of economic, social or environmental well-being; introduces executive arrangements; makes provision for the conduct of members and employees, changes to elections, and a number of miscellaneous items.

Local authorities, except those with a population of less than 85,000 on 30 June 1999, will have to adopt one of the three forms of executive arrangements prescribed:

- (a) mayor with cabinet executive;
 - (b) leader and cabinet executive;
 - (c) mayor and council manager.
- 2.2 The Secretary of State is under a duty to develop general principles on the code of conduct for members, and has recently issued a consultation document on these. Each authority must develop its own specific code of conduct in accordance with these principles.
- 2.3 Standards committees will have to be set up by authorities to promote and maintain standards of conduct.
- 2.4 A Standards Board for England will be set up to promote and maintain high standards of conduct with not less than three members, appointed by the Secretary of State.
- 2.5 Ethical standards officers, (ESOs), appointed by the Board will undertake investigations. Case tribunals will consider the findings and determine what

penalties should apply. The tribunals will be under the supervision of the Adjudication Panel for England.

2.6 Surcharges for Councillors have been abolished.

3. **Recommendations**

3.1 That the introduction of the new ethical framework contained in the Local Government Act 2000 be noted.

4. **Background**

4.1 The Act will come into force in tranches through Commencement Orders. The first wave is likely to be immediate (within 2 weeks) and will cover the sections of that Act regarding proposals for new executive arrangements. The reason for the Act coming in to force in tranches is that a number of sets of Regulations will be required and some will require further consultation.

4.2 A Consultation paper on the General Principles of Conduct in Local Government is currently circulating and an item about it is on this agenda.

4.3 The Act enables the Secretary of State to develop general principles of conduct for all authorities covered by the new ethical framework.

The Secretary of State will need to consult various bodies, including local government representatives, the Audit Commission and the local government Ombudsman on the general principles.

The Secretary of State could also issue a model code of conduct, by order, for members giving practical effect to the general principles.

Again the Secretary of State would be required to consult before introducing model codes. The Local Government Association has drawn up a draft model code of conduct for Members.

4.4 The Act requires affected authorities to adopt a code of conduct within six months of a new model code becoming effective. If an authority already has a code of conduct it would only need to revise it to become consistent with the new model code. An authority's code of conduct must include any mandatory provisions of the model code that applies to it. If an authority fails to adopt a code of conduct within six months, the relevant mandatory provisions of the model code apply by default. If an authority adopts or revises its code of conduct, it must publish the fact, make the code available for public inspection, and send a copy to the Standards Board.

4.5 Each member will have to comply with the code of conduct its authority adopts. Within two months of a new or revised code coming into effect, each of an authority's members will have to declare in writing that they will follow it. Any Member who does not **would cease to be a Member of the authority**.

4.6 All local authorities will have a duty to establish a standards committee and provide the Standards Board with a copy of its terms of reference. Standards committees will consist of at least three members. Two will be elected councillors of the authority and one an independent. The independent cannot be a member or officer of any authority but has voting rights. A standards committee must not include the elected mayor or executive leader, and may not be chaired by a member of the executive.

4.7 The general functions of standards committees are to promote and maintain high standards of conduct within an authority and to help the authority's members to observe its code of conduct. Their specific functions would be to:

(a) advise the authority on the adoption or revision of its code of conduct;

- (b) monitor the operation of the authority's code, eg recommending changes to keep the code up to date; and
- (c) advise members on matters relating to their code, including training.

4.8 The Secretary of State could make regulations, and the Standards Board could issue guidance on the size, proceedings and functions of a standards committee.

The standards committee of district and unitary authorities are responsible for the same functions in relation to parish councils and members for which they are the responsible authority. This responsibility may be discharged through a sub-committee, but in either event a member of the parish council must be included.

4.9 There is to be a new independent body, the Standards Board for England, which will consist of not less than three members appointed by the Secretary of State. It is expected to be running by April next year. The Standards Board must appoint employees, known as ethical standards offices (ESOs). The Board will only investigate written complaints.

All complaints, no matter how trivial, will have to go to the Standards Board.

The functions of the ESOs are to investigate cases referred to them by the Standards Board. The purpose of an ESO investigation is to find that:

- (a) there is no evidence of a failure to comply with a code of conduct; or
- (b) there is no need for action, whether the code was breached or not, or
- (c) the matter should be referred back to the authority's monitoring officer; or;
- (d) the ESOs should report to the adjudication panel.

4.10 The procedure for conducting an investigation would specifically give the person being investigated opportunity to comment on the allegation and the conduct of an investigation should not affect the authority's ability to take its own action. Otherwise an ESO could conduct an investigation as he or she sees fit. ESOs, or persons authorised to assist with an investigation, have rights of access to the information or documents necessary to the investigation. Officers who do not provide information may incur a criminal offence, punishable by a fine.

4.11 An ESO will need to report the investigations' outcome, with copies sent to whoever is the subject of the allegation and to the chairman of the authority's standards committee. If the report recommends referring the matter to the adjudication panel, it would also be sent a copy. The Standards Board would need to take responsible steps to inform whoever made the original allegation about the investigations' outcome. Where the ESO finds that there was no failure to comply with a code or no further action is required a summary of the report may be published in a local newspaper.

4.12 The ESO would be able to issue an interim report if he thinks it would be in the public interest. ESOs would have circulate interim reports on the same basis as final reports. Such reports can conclude that the person being investigated should be suspended from membership of the authority or any of its committees or sub-committees for up to 6 months (though this could be extended by further notices up to the remainder of the member's term of office). A person who is suspended may appeal to the High Court.

4.13 An Adjudication Panel for England will be set up, with members appointed by the Lord Chancellor.

The primary function is to receive ESO's reports and establish case tribunals to consider them.

Anyone who is the subject of an adjudication by a case tribunal would either appear before the panel in person or be represented by a third party. Failure to comply with a case panel's requirements would be punishable by fine.

4.14 An adjudication panel would have to decide in any case before it, whether or not the code of conduct was breached, and to notify the authority's standards committee stating details of any breach. If a panel decides that the code of conduct was breached, it would have to decide whether the person should be suspended from membership of the authority (or its committees or sub-committees) or disqualified from being elected or being a member of any authority. Suspensions would not exceed one year (or term of office left) and disqualifications would not exceed five years. Copies of any notice issued by the panel would need to be sent to the Standards Board and anyone who is the subject of the notice. Reasonable steps should be taken to inform whoever made the initial allegation of the outcome of the panel's adjudication. Notices would be published in the authority's local newspaper(s). Anyone that a case panel decides has failed to comply with the code of conduct would have a right of appeal to the High Court.

4.15 The Act enables the Secretary of State by order, to issue a code of conduct for qualifying local government employees. In drawing up a code, the Secretary of State will have to consult representatives of local government and of its employees, the Audit Commission and the Ombudsman. This code would be incorporated into the terms and conditions of these local government employees.

4.16 The Society Of Chief Personnel Officers and the Employers Organisation are working on a draft code of conduct for consultation.

5. **Issues and Choices**

5.1 Once the mandatory provisions of the model code are known it will be possible for the Standards Committee to consider what changes, if any, should be made to this authority's Local Code of Conduct for Members.

The Committee will also want to think about the new responsibilities it will have for probity issues within parish councils and how best to discharge those responsibilities.

Once the Local Government Act 2000 is in force the Council will have to decide what to do with investigations that are already underway, but not concluded. At the moment there is too little information about transitional provisions to take this matter any further.

6. **Implications**

6.1 Environmental

None.

6.2 Equalities

None.

6.3 Financial

Limited expenditure may be involved in meeting the travelling and attendance costs of the independent member(s) of the Standards Committee. There may be additional expenditure incurred in investigating minor infringements of a local code that the Standards Board thinks should be referred back to the Council's Standards Committee.

6.4 Legal

The requirement to set up a Standards Committee is statutory, as is the requirement that it should have at least one voting member who is independent of the Council.

6.5 Staff and Accommodation

None yet identified but depending on the work generated by this new legislation additional staffing may be needed by the Monitoring Officer and/or the Chief Internal Auditor.

6.6 Crime Prevention

None

6.7 Cultural Planning

None

7. **Conclusions**

7.1 The new legislation is very much as expected, with few significant changes from the Bill published last year. The relevant provisions are expected by the Local Government Association to come into force in April next year though no formal announcement has yet been made.

Background Papers: None