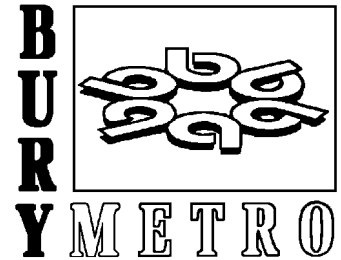


**BURY METROPOLITAN BOROUGH
CHIEF EXECUTIVE'S DEPARTMENT**



STANDARDS BULLETIN – MARCH 2005

LOCAL INVESTIGATIONS

Section 66 of the Local Government Act 2000 deals with the referral of alleged breaches of the Code of Conduct to Monitoring Officers and, in particular, gives the Secretary of State the power to make regulations in this regard. Further such regulations have meant that from November 2004, such breaches can be referred for investigation locally by the Council's Monitoring Officer, and then, where appropriate, determined by the Standards Committee.

CODE OF CONDUCT – PROCESSING OF APPLICATIONS

Since the establishment of the Standards Board for England, and the introduction of the Model Code of Conduct for Members in February 2002, the Board has received about 7500 complaints involving local authorities, including town and parish councils. The length of time taken for cases to be dealt with by the Board has been an area of concern across local government. Initial problems stemmed from the fact that initially, the Standards Board could not delegate the initial examination of complaints or the decision to an Ethical Standards Officer for investigation. This meant that every complaint received had to be considered in detail at a meeting of the full Board. This procedure is now delegated to a number of referrals officers. A streamlined notification procedure has also been introduced to expedite the process. It is also understood that the number of Ethical Standards Officers has been increased and that a number of investigators have been recruited. Also, delays should be reduced through cases being referred for local determination and investigation, which will enable Ethical Standards Officers to concentrate on more serious cases.

REVIEW OF THE ETHICAL FRAMEWORK

The Committee on Standards in Public Life, chaired by Sir Alistair Graham, has undertaken a review of the ethical framework as it applies to local authorities, the National Health Service and public bodies. The outcome of the Review is still awaited but the Committee has so far found general support for the introduction of a Model Code of Conduct for all tiers of local government and general acceptance for some form of national investigative body which can also advise on good practice. The Committee has acknowledged the difficulties faced by the Standards Board in terms of workload and the delays within the system. Whilst streamlining through local determination and investigation is seen as beneficial in terms of efficiency, there is seen to be merit in the current system whereby all cases involve a view being taken by the Board as to whether the matter should be taken further,

independently of the local authority concerned. The Board has made submissions to the Committee and has indicated that it would wish to avoid expending resources on minor local issues which do not warrant investigation and that it is committed to the principle that local issues should be dealt with at a local level whenever possible, with the Board's support and guidance. The Committee will make recommendations to the Government.

REVIEW OF THE CODE OF CONDUCT

The Government intends to review the Model Code of Conduct for Local Authorities and will be contacting interested parties including local authorities, independent members of Standards Committees and monitoring officers. The Committee on Standards in Public Life has raised the following issues for consideration:

- The inclusion of guiding principles in the Model Code.
- The potential for the Code to cover private behaviour which might be unrelated to the behaviour of a Member whilst on Council duty.
- The impact of the "whistle blowing" duty arising from the fact that failure to report a breach of the code by another member amounts in itself to a breach of the Code, has generated a significant volume of minor complaints.
- A lack of clarity and some confusion over the interpretation of rules on declarations, in respect of planning decisions in particular.

The Commons Select Committee on the Office of the Deputy Prime Minister is also to examine the role and effectiveness of the Standards Board for England, and it is likely that the findings and any recommendations of the Select Committee will be taken into account by the Government in its review of the Code.

MEMBERS' INTERESTS AND PRE-DETERMINATION/BIAS IN RELATION TO DECISIONS

Members have recently been forwarded a copy of the Standards Board publication, "Lobby Groups, dual-hatted members and the Code of Conduct." The booklet looks specifically at the issues of pre-determination and bias and where this can prevent a member from participating in a decision. With regard to membership of lobby or campaign groups, the Board advises that whenever a matter considered at a meeting has a direct impact upon a lobby or campaign group, a Member who belongs to that group should regard him or herself as having a prejudicial interest and withdraw. This can be a difficult issue for Members who may feel that their constituents expect them to support and represent local views on contentious local issues. Also, Planning Committee members should not remain in the meeting in respect of an application on which they have already expressed a view.

A RECENT CASE – GEORGIU v LONDON BOROUGH OF ENFIELD

This case involved members of the Planning Committee who were also members of the Council's Conservation Advisory Group. In their capacity as members of the Group, they had supported proposals to restore a listed building and convert it to offices and consulting rooms. The same members voted in favour of the granting of planning permission. The Court considered that a fair minded and informed observer would have concluded that there was a real possibility of bias.

REGISTERING OF INTERESTS AND FREEMASONS

With regard to Members who are Freemasons, the Standards Board has previously advised that it was not necessary to enter into the Register of Interests membership of their lodge (unless it was a lodge directed to charitable purposes, or had charitable status). It was however considered to be necessary to register their membership of the Masonic Grand Charity. The Board has now indicated that because it is permissible for an individual Freemason to opt out of membership of the Grand Charity, a member who is a Freemason and has done so, need no longer register their membership as an interest.

INDEMNITIES

The Government has published draft regulations which will, if brought into force, enable local authorities to indemnify Members or Officers in certain circumstances. This could include the provision, directly or by insurance, of independent advice and/or representation for a Member who is the subject of an allegation under the Code of Conduct which is referred for determination locally by the Standards Committee or by an Adjudication Panel. If such provision is made, and the Member is found or admits that he or she has failed to comply with the Code, the Member will be required to reimburse the Council in respect of any expenditure by the Council or the insurer in relation to the proceedings.

WHERE DO I GO IF I NEED ADVICE?

If you have any questions about the Code of Conduct you should contact the Monitoring Officer (Jayne Hammond, Director of Legal and Democratic Services).

For advice on issues raised in this Bulletin you may contact Chris Shillitto (0161 – 253 5041) or Jayne Hammond (0161 – 253 5237), e-mail – c.shillitto:bury.gov.uk or j.m.hammond@bury.gov.uk.

Alternatively you can log on to the Standards Board Website on www.standardsboard.co.uk.