

STANDARDS COMMITTEE

REVIEW OF PROTOCOL ON PUBLICITY FOR ALLEGATIONS OF BREACH OF CODE OF CONDUCT MADE TO THE STANDARDS BOARD 21st June 2007

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider whether it wishes to recommend Council to make any amendments to the Protocol on publicity for allegations breach of the Code of Conduct made to the Standards Board.

This report is public

RECOMMENDATIONS

- (1) **That the Committee consider whether it wishes to recommend to Council any amendments to the Protocol on publicity for allegations of breach of the Code of Conduct made to the Standards Board.**

1.0 Introduction

- 1.1 At its meeting on the 23rd March 2007, the Committee considered a report from the Monitoring Officer following investigation of a complaint from one Member of the Council that another Member had been in breach of the Protocol, by informing the press of an allegation that that Member had made to the Standards Board of a breach of the Code of Conduct. The Committee requested the Monitoring Officer to report back to the Committee on possible amendments to the Protocol in the light of this investigation, as Members were of the view that the Protocol should prevent a member from "causing" a complaint to be made public.

- 1.2 The Protocol currently requires as follows:

"When a Member has made or is considering making a complaint to the Standards Board alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to the public in any forum, whether at a meeting that is open to the public or through the press or media. No member who is aware of a complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within Council."

- 1.2 In the case considered by the Committee, the complaint to the Standards Board had been reported in a local newspaper, and reference was made to the fact that the complainant was a Member of the Council, but there was no direct evidence that it was the Member making the complaint to the Standards Board who had contacted the press. Indeed there was evidence that the Member had discussed the complaint within the Member's political group, as well as with an outside pressure group, and a suggestion that the information could have been given to the press by someone who was not a member of the Council, and who was not therefore bound by the Protocol.
- 1.3 Because the press will not generally disclose their sources, it is likely always to be extremely difficult to prove a breach of the Protocol, however it is worded. Under the current wording of the Protocol, a Member who makes a complaint or proposed complaint known to colleagues is not in breach if the Member does not make those discussions public. If any of those colleagues are not members of the Council, then the Council is not able to prevent them from making the complaint public.

2.0 Proposal Details

- 2.1 From the foregoing it can be seen that enforcement of the Protocol may not always be straightforward.
- 2.2 However, Members requested an amendment that would cover "causing" a complaint to be made public, and may feel that an amendment as follows may strengthen the Protocol. For ease of reference the suggested amendments are in italics.

"When a Member has made or is considering making a complaint to the Standards Board alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to the public in any forum, whether at a meeting that is open to the public or through the press or media, and should not discuss the complaint or possible complaint in such a manner as is reasonably likely to cause the complaint to be made known to the public. It is recognised that a Member who has made or is considering making a complaint to the Standards Board may wish to discuss the matter within the Member's own political group or seek advice from a third party. In such cases, it is the Member's responsibility to ensure that any person(s) in whom the member confides agree(s) not to make the information known to the press and/or public. No member who is aware of a complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within Council."

- 2.3 The suggested wording mirrors the new provision on confidential information in the new Model Code of Conduct, which enables members to disclose confidential information to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information.

3.0 Details of Consultation

- 3.1 There has been no consultation on this proposal. It is for the Committee to advise the Council on suitable protocols, and the purpose of this report is to enable the Committee to consider any suitable amendment before making recommendations to Council.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The Committee is asked to consider the suggested amendment, but it is open to the Committee to recommend any other alternative wording to Council. It must be

recognised that enforcement of this provision may not always be straightforward, given that “causation” may be difficult to prove and given that the Monitoring Officer cannot require any person who is not a member of the Council to provide information for an investigation process.

5.0 Conclusion

5.1 The views of the Committee are sought.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

SECTION 151 OFFICER’S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments.

MONITORING OFFICER’S COMMENTS

The report has been prepared by the Monitoring officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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