
STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE

Responsible Cabinet Member(s) - The Leader, Councillor John Williams
Responsible Director(s) – Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To consider a response to a Discussion Paper issued by the Office of the Deputy Prime Minister on 25th December, 2005 regarding its vision for a future comprehensive conduct regime for local authority Members and employees.

Background

2. The attached report **Appendix 1** was considered by the Standards Committee at its meeting held on 1st March, 2006 and it made the following recommendations to Council.

“That the following views be forwarded to the Office of the Deputy Prime Minister in relation to the Discussion paper :-

- (a) the overall content of the Discussion Paper is accepted;
- (b) the role of the Monitoring Officer and Standards Committee locally as the promoters and champions of high standards within local authorities is endorsed; and
- (c) the Government be encouraged to legislate in respect of those matters which need primary legislation as soon as possible.”

Outcome of Consultation

3. No external consultation was required.

Legal Implications

4. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

5. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in

its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

6. The issues contained within this report are required to be considered by Council.

Recommendation

7. That the Standards Committee recommendations be endorsed and sent to the Office of the Deputy Prime Minister as the Council's response to the discussion paper.

Reason

8. To enable a formal response to be submitted on the Discussion Paper.

Paul Wildsmith
Director of Corporate Services

Background Papers

- (i) Minutes of Meeting of Standards Committee held on 1st March, 2006
- (ii) Report to Standards Committee held on 1st March, 2006.

Christine Bates
Extension 2387.

**STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT :
THE FUTURE**

Purpose of Report

1. To present to Members details of a Discussion Paper issued by ODPM on 15th December, 2005 regarding its vision for a future comprehensive conduct regime for local authority Members and employees.

Information and Analysis

2. This Discussion Paper draws together the Government's current views on the future of the conduct regime for Local Government in England. It sets out a vision for the future regime and provides a co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government. It is helpful that the Government has taken the opportunity to deal with all the various matters in one discussion paper, which is available on the ODPM website at www.odpm.gov.uk/index.asp?id=1162582.
3. In particular, it incorporates the Government's response to :-
 - (a) the tenth report of the Committee on Standards in Public Life (Graham Committee) - 'Getting the Balance Right - Implementing Standards in Public Life', January 2005;
 - (b) recommendations by the ODPM Select Committee on the 'Role and Effectiveness of the Standards Board for England';
 - (c) recommendations by the Standards Board for England following their consultation on the Code of Conduct for Members;
 - (d) the 2004 ODPM Consultation Papers on a 'Review of the Regulatory Framework Governing the Political Activities of Local Government Employees' and a 'Model Code of Conduct for Local Government Employees';
4. The Government's responses to these reviews and recommendations reflect the fact that local authorities in England have a strong track record of high standards of conduct and are based on the continuing need :-
 - (a) to maintain high standards of conduct for local authority Members and employees;

- (b) to define effectively what standards of conduct are expected of Members and Officers, and for such rules to be fair and clear;
- (c) for an effective means of taking action when breaches of the rules occur, and for such means to be fair, clear, proportionate, rigorous and thorough; and
- (d) to ensure that measures are in place to guarantee public confidence in the appropriateness of the ethical regime.

Proposed Changes to Current Arrangements

5. The overall approach to conduct set out in the paper would involve a number of changes to current arrangements, principal among them being :-

Conduct Regime for Local Councillors

- (a) initial assessment of all misconduct allegations to be undertaken by Standards Committees, rather than the Standards Board;
- (b) local Standards Committees to be responsible for investigating and determining most cases;
- (c) the Standards Board to adopt a more strategic, advisory and monitoring role, but retaining responsibility for investigating the most serious misconduct allegations;
- (d) improvements to the operation and composition of local Standards Committees, with independent Chairs and Committees to include independent members with a balance of experience; and
- (e) a clearer, simpler code of conduct, including changes to the rules relating to personal and prejudicial interests.

Conduct Regime for Local Government Employees

- (a) issue a Code of Conduct for local government employees;
 - (b) retain the current principle that senior and sensitive posts should be politically restricted, but to ensure that only the most senior and sensitive posts are covered;
 - (c) discontinue the post of the Independent Adjudicator and provide for authorities' Standards Committees to make decisions on posts exempt from restrictions; and
 - (d) uprate the current rate of pay for political assistants by statutory instrument, and provide for future increases to be permanently linked to local government pay scales.
6. The Government believes that such an approach would both deliver clearer and more proportionate conduct regime for local government Members and employees, and ensure that the public can continue to have confidence in those who serve them.

Impact of the Changes

7. There is seen to be a fundamental need to improve the independence of Standards Committees nationally and encourage the building up of the capacity and capability of the Committees to undertake their new role. The changes will also mean the evolution of the Standards Board into a strategic arms length body dealing with only the most serious cases nationally, and ensuring capacity is increased at local level through increased support, advice and guidance.
8. Standards Committees should be at the heart of decision-making within the conduct regime. They are in the lead in ensuring high standards of conduct at the local level, and are increasingly taking on a greater role in the determination of cases as a result of changes to regulations introduced recently. The Government wishes to continue this trend and considers that it would be a logical step to extend their role further to take on the initial assessment of all allegations. Monitoring Officers would be responsible for arranging to undertake the investigation of most allegations, and Committees would make determination in most cases. Only the most serious cases would then be referred to the Standards Board for investigation.

Further Implications of the Proposed Changes

9. A more locally based regime would provide an appropriate way for local knowledge of the authority to be fed into the decision-making process. The experience and skills of the Monitoring Officer could be used more effectively, including potentially allowing greater opportunity for local mediation or other intervention short of investigation, which might allow some disagreements to be defused before they turns into full blown allegations. Such new arrangements might also give an opportunity for Standards Committees to spot politically inspired or vexatious complaints, which might mean that unworthy cases could be rejected as soon as possible.
10. As a result of these changes, Monitoring Officers and Standards Committees will need to become central to the Ethical Agenda, not only in investigating but also in promoting and championing high standards, and ensuring that standards become embedded as an intrinsic part of the local culture. Standards Committees would become the main means of increasing Councils' awareness of standards issues. There are links here to the increasing importance of governance and standards in the CPA process.
11. Consequences are that more support of the appropriate quality will be needed for Monitoring Officers and Standards Committees so that they are able to promote high standards of conduct throughout the authority and ensure that concern for conduct issues is embedded.
12. The Government accepts the recommendation of the Graham Committee that Standards Committees should have an independent chair (as is the case in Darlington) but does not accept that Committees should be required to have a majority of independent members.

Changes to the Code of Conduct

13. It is also proposed to simplify and clarify the Code of Conduct for members, so that it better reflects the way modern Councils work and is easier for members and others to understand and use. The Government has welcomed the recommendations the Standards Board has presented, arising from its consultation on the review of the Code of Conduct for members and agreed that amendments to the Code should be made along the lines suggested by the Board, including :-
- (a) making the Code clearer and simpler; but
 - (b) maintaining a rigorous approach to the identification of serious misconduct;
 - (c) amending the regime for declaring interests and speaking at Council meetings particularly for members who also serve on other public bodies;
 - (d) making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code; and
 - (e) amending the rules on the reporting of allegations by members to reduce the number of vexatious complaints.
14. The Government also accepts the Board's recommendation that a clearer balance needs to be set between the need for an authority to protect genuinely confidential information and members' rights to make information available in the public interest, in the light of the provisions of the Freedom of Information Act.
15. The Board's recommendation that a specific provision should be added to the Code to clarify that bullying behaviour constitutes a breach of the Code has also been accepted.
16. The following key changes are proposed to the Code :-
- (a) The general principles, currently contained in a separate Order, should be published alongside the Code to serve as a reminder of the guiding principles for member conduct and give a positive tone to the provisions of the Code.
 - (b) Certain behaviour outside official duties should continue to be regulated, but this should be restricted only to matters that would be regarded as unlawful.
 - (c) In relation to appointments to other public bodies amendments to the Code will adopt a solution involving the member making a declaration of personal interest at the time when s/he speaks on a relevant issue (rather than at the start of the meeting). In addition, even where the member has a prejudicial interest in the matter relating to the body he represents (e.g. where the matter has a direct impact on the body concerned, or where the member is involved in regulatory matters in a decision-making capacity such as in respect of planning and licensing), s/he should be allowed to remain in the meeting to speak on behalf of the body, or on behalf of a campaign that s/he supports, but should withdraw before the vote.

- (d) The ‘whistleblowing’ obligation to report breaches of the Code will be abolished (which most members will welcome).
17. In parallel, the conduct regime relating to local authority employees will be made more systematic, in particular, by the introduction of a Code of Conduct for employees, taking into account lessons learnt in the operation of the Code for members. The current rules requiring senior local authority posts to be politically restricted will be retained but with changes to raise the pay limits for political assistants.
18. The Government believes this approach will provide the conduct regime that local government will need in future as it develops the kind of strategic role encouraged as part of the ‘Local Vision’ debate. A number of the ideas for change require legislation which will occur at the next convenient opportunity that Parliamentary time allows. No information is provided as to when this might be, but it is not expected until at least the 2006/7 Parliamentary Session. The Government has indicated that it proposes to work closely with the Standards Board and for the stakeholders to carry forward the changes identified in the Paper, having regard to any comments and debate the Paper itself generates. Oddly, the Discussion Paper and the covering letter issued with it do not set out a timescale for comments being returned. The Standards Board in a letter of 5th January, 2006 have indicated that they envisage new legislation on the move to local filtering of complaints to be in place by 2008 and that changes to the Code of Conduct for Members can be enacted from May, 2006.

Commentary

19. The proposed changes will go a long way towards resolving some of the criticisms of the Code itself and the enforcement regime. The strategic regulator role for the Standards Board is a step in the right direction, as is the proposed new Code for local government employees. Larger authorities will be relaxed about the proposal that complaints should be subject to a local filtering system rather than, as now, all being fed into the Standards Board for England and filtered at a national level. However, there are potential workload implications for those authorities which may be smaller district authorities having a large number of Parish Councils within their area, as it is quite clear that in the first years of operation of the Standards Board arrangements, the majority of complaints have come from Parish Councils. The simplification of the Code of Conduct for Members is also to be welcomed.

Legal Implications

20. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

21. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those

functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Recommendations

22. That the Committee recommends to the Council that the following views be forwarded to ODPM in response to the discussion paper :-
- (a) That the overall content of the discussion paper is accepted.
 - (b) That the role of the Monitoring Officer and Standards Committee locally as the promoters and champions of high standards within local authorities is endorsed.
 - (c) That the Government be encouraged to legislate in respect of those matters which need primary legislation as soon as possible.

Peter Kearsley
Borough Solicitor and Monitoring Officer

Background Papers

- (i) Letter from Office of the Deputy Prime Minister 15th December, 2005 to the Chief Executive.
- (ii) News Release from Office of the Deputy Prime Minister 15th December, 2005 entitled 'Public Confidence at the Heart of Local Government Conduct Regime'.

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