

AGENDA ITEM 7

CORPORATE AFFAIRS COMMITTEE

25 JANUARY 2006

**STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE –
OFFICE OF THE DEPUTY PRIME MINISTER**

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PURPOSE OF THE REPORT

- 1 To inform Members of the report published by the Office of the Deputy Prime Minister entitled “Standards of Conduct in English Local Government: The Future”.

BACKGROUND

- 2 The Office of the Deputy Prime Minister has published the paper, Standards of Conduct in English Local Government: The Future. This is effectively a ‘White Paper’, in that it draws together the Government’s current views on the future of the conduct regime for local government in England, and sets out the Government’s intentions following various consultation exercises.
- 3 The paper provides a coordinated response to a series of recent recommendations, reviews and consultations, in particular:
 - The tenth report of the Committee on Standards in Public Life (Graham Committee) – Getting the Balance Right – Implementing Standards in Public Life, January 2005;
 - The Role and Effectiveness of the Standards Board for England – Report of the ODPM Select Committee, April 2005;
 - Recommendations following consultation on the code of conduct for Members by the Standards Board for England;
 - Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – An ODPM consultation paper, August 2004;
 - A Model Code of Conduct for Local Government Employees – An ODPM consultation paper, August 2004.

Middlesbrough Council was consulted on, and responded to, the last two of the above consultation papers.

The Government's Key Objectives

- 4 The proposals are far reaching and detailed. However, there are certain key objectives contained within the Paper. These include:
 - the members' Code of Conduct, the Standards Board and local Standards Committees should work effectively together, as an integrated whole
 - local ownership of the conduct regime would best be achieved by a move to a more locally-based decision-making process, with equity and independence being ensured both by the retention of a central, strategic and investigatory role for the Standards Board for England, and improvements to the operation and effectiveness of Standards Committees.
 - simplification and clarification of 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 introduction of a Code of Conduct for employees
 - retention of the current rules requiring certain local authority posts to be politically restricted.

Proposed changes to the Code of Conduct for Members

- 5 The Paper contains several proposals for changes to the Code of Conduct for Members. In brief, these include:
 - making the code clearer and simpler
 - maintaining a rigorous approach to the identification of serious misconduct
 - amending the regime for declaring interests and speaking at council meetings
 - making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the code, and
 - amending the rules on the reporting of allegations by members to reduce the number of vexatious complaints.
- 6 Members will be pleased to note the third 'bullet point' above, as this was a point that Members made to the Minister for Media & Tourism following the introduction of the new licensing arrangements (Corporate Affairs Committee 24 August 2005). The Paper recognizes the need for relaxations, particularly to support councillors' advocacy roles for their constituents and the public bodies on which they serve.
- 7 The Paper also notes that a specific provision should be added to the Code of Conduct to clarify that bullying behaviour by Members constitutes a breach of the Code. The Government "agree with the Board that bullying should play no part in the local government world"

Proposed changes in respect of the roles of local Standards Committees and the Standards Board for England

- 8 The Paper proposes a major shift in emphasis in the system from central to local decision making. Members will be aware that since the introduction of the Standards Board for England, all complaints relating to the behaviour of Councillors must be reported to the Standards Board for England. The Paper proposes that in future local Standards Committees should be “at the heart of decision-making within the conduct regime”: only the most serious cases will be investigated by the Standards Board.
- 9 The detailed proposals include:
 - Monitoring officers will undertake the investigation of most allegations
 - Local Standards Committees will make determinations of most cases
 - Only the most serious cases will be referred to the Standards Board for investigation
 - Monitoring Officers and Standards Committees will need to become central 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
 - Capacity building measures and support to be provided to Standards Committees between now and the coming into effect of the new regime
 - Standards Committees will be required to have an independent chair
 - Standards Committees will report to the Standards Board on how they have been undertaking their role: this might be done through the submission of annual reports, in a common format
 - The Standards Board will monitor the performance of Standards Committees.

Proposed changes in respect of the Conduct of Local Government Employees

- 10 The Paper also proposes a number of changes relating to the conduct of local government employees. These include:
 - Retention of the existing framework which restricts the political activities of certain senior staff: however, consideration will be given to amending the existing legislation to ensure that ‘Political Restriction’ only applies to the most senior, or the most sensitive, posts.
 - Abolition of the post of Independent Adjudicator, and delegation of the role in the making decisions on applications for exemption from ‘Political Restriction’ to local Standards Committees.

- An interim measure to increase the pay of Political Assistants to Spinal Column Point 44, and to pursue primary legislation to fix their rate of remuneration to a scale between Points 44 and 49.
 - To issue a code of conduct which all employees should follow, which will be incorporated into each employee's contract of employment,
- 11 The Paper rejects any further changes to the rules relating to political or Mayoral assistants, and in respect of the rules relating to employees acting as elected members.

SUMMARY AND CONCLUSIONS

- 12 The Paper summarises the proposed legislative changes that the Government intends to pursue as follows:
- All Chairs of Standards Committees to be independent, and committees to include independent members who reflect a balance of experience.
 - Monitoring/reporting requirements for standards committees, so the Standards Board can check on progress.
 - Issue of a code of conduct for all local government employees.
 - Initial assessment of all allegations of misconduct to be undertaken by Standards Committees, rather than by the Standards Board.
 - Local Monitoring Officers to investigate most cases, and Standards Committees to determine most cases.
 - The Standards Board only to investigate the most serious cases. The Board's role to be redefined as supporting, monitoring and overseeing authorities' performance in dealing with allegations.
 - Intervention powers for the Board when they consider Standards Committees are not operating effectively.
 - New provisions giving Standards Committees powers to impose higher penalties to reflect the need to locally deal with more serious cases.
 - Retention of current rules requiring senior and sensitive posts to be politically restricted, but ensuring that the restriction in future only applies to the most senior or most sensitive posts.
 - Abolition of the post of Independent Adjudicator, and provision for local Standards Committees to make decisions on which posts are to be exempt from political restrictions.
 - Uprate current rate of pay of political assistants by Statutory Instrument to Spine Point 44, and amend the 1989 Housing and Local Government Act to allow for the pay rate to be permanently linked to a scale between Spinal Column Points 44 and 49, with no further need for Statutory Instruments to be issued each time the rate is increased.
- 13 The Paper does not give any indication as to the proposed legislative timetable, but does indicate that some of the changes will be phased in. In view of the fact that most of the above legislative changes will have to be by way of Primary Legislation (an Act of Parliament, rather than simply making Regulations), there will be some delay in introducing the proposals. The Paper simply states that the Government

“intend to seek primary legislation at the next convenient opportunity as Parliamentary time allows”.

- 14 Many of the proposals will be welcomed, and will address many of the growing concerns expressed by Members (both locally and nationally) about the current process, both in terms of the perceived cumbersome process of all complaints having to be made by the Standards Board England, and in respect of the apparent increase in trivial and vexatious complaints to the Standards Board.
- 15 However, the new requirements in relation to
 - the initial assessment of all complaints locally by the Standards Committee;
 - investigations being undertaken by the Monitoring Officer; and
 - consideration and determination of cases by the Standards Committee, will have significant resource implications both in terms of officers’ and Members’ time. The Paper recognises this, and points out that the phased introduction referred to in Paragraph 12 above will allow for “capacity building measures to be put in place, so as to prepare Monitoring Officers and Standards Committees for their roles in the revised regime”.
- 16 Although the Report is not a consultation paper as such, the Office of the Deputy Prime Minister has indicated that comments or views on the content of the Paper can be submitted to the Democracy & Local Governance division of the ODPM.

RECOMMENDATIONS

- 17 That Members note the contents of the report, and that the proposals contained in the Paper will also be reported to the next meeting of the Standards Committee.
- 18 That Members indicate whether they wish any comments or views on the Paper to be forwarded to the ODPM.

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BACKGROUND PAPERS

Standards of Conduct in English Local Government: The Future – Cabinet Office, December 2005

Minutes of the Corporate Affairs Committee 24 August 2005