

TITLE:	STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE
TO/ON:	EXECUTIVE COMMITTEE – 6th FEBRUARY 2006
BY:	LEGAL SERVICES MANAGER & MONITORING OFFICER
PORTFOLIO:	LEADER
STATUS:	REPORT

STRATEGIC FACTOR CHECKLIST

The Council's Corporate Management Team has confirmed that the Strategic Factor Checklist has been applied to the development of this report and there are no key issues over and above those set out in the body of the report that need to be brought to Member's attention.

1. PURPOSE OF REPORT

To inform members of the content of a discussion paper published by the Office of the Deputy Prime Minister (ODPM) on the 15th December 2005 which sets out the Government's current views on the future of the conduct regime for Local Government (hereinafter referred to as "the Paper") and to seek members views, if any, in relation to those proposals.

2. BACKGROUND

2.1 The paper is expressed to be (1) the Government's vision for the future of the conduct regime for Local Government in England and (2) the Government's co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in Local Government, in particular:

- (a) Report of the Committee on Standards in Public Life (Graham Committee) – Getting the Balance Right – Implementing Standards in Public Life – January 2005 (10th Report, Chapter 3).
- (b) Report of the ODPM Select Committee – The Role and Effectiveness of the Standards Board – April 2005.
- (c) Recommendations following consultation on the Code of Conduct for Members by the Standards Board for England – June 2005.

- (d) Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – An ODPM consultation paper – August 2004.
- (e) An ODPM consultation paper – A Model Code of Conduct for Local Government Employees – August 2004.

2.2 The Paper sets out the principles upon which the Government's responses to these reviews and recommendations are based, that is, the strong track record of high standards of conduct in local Government and 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 measures are in place to guarantee public confidence in the appropriateness of the ethical regime.

2.3 The ODPM has stated that, subject to any further views and debate prompted by the Paper, it is intended to seek legislative change at the next convenient opportunity that Parliamentary time allows. At the time of issue of the Paper no time limit had been set for receipt of any comments, however, the ODPM has subsequently set a time limit of 31st January 2006. As a result of enquiries made of Mr William Tandoh, the contact officer at the ODPM, it has been agreed that any comments from this Council in relation to these proposals may be submitted no later than 10th February 2006.

3. **PROPOSALS FOR CHANGE**

3.1 **Local Councillors and Monitoring Officer**

The main proposals are as follows: -

- (a) the initial assessment of all misconduct allegations to be undertaken by Standards Committee rather than the Standards Board,
- (b) the investigation of most allegations to be undertaken by the Monitoring Officer and the local Standards Committee to determine most cases,

- (c) local Standards Committees to be given new powers to impose higher penalties to reflect the need to address more serious cases,
- (d) the Standards Board to adopt a more strategic, advisory and monitoring role, but retain responsibility for investigating the most serious misconduct allegations. As part of the Monitoring role it is proposed that local Standards Committees be required to submit an annual report, in a common format, to the Standards Board. In addition, Standards Board will have powers of intervention if it is considered that the local Standards Committee is not operating effectively,
- (e) alterations be made to the operation and composition of local standards committees, in particular, committees to be chaired by independent members and committees to include independent members with a balance of experience so as to ensure that public confidence in the independence and rigour of a local regime is retained,
- (f) Make the code of conduct clearer and simpler but: -
 - (i) maintain a rigorous approach to identification of serious misconduct
 - (ii) amend the regime for declaring interests and speaking at Council meetings particularly for members who serve on other public bodies
 - (iii) making changes to arrangements for determining whether conduct in private life should fall within the ambit of the code, that is, to make clear that unlawful conduct in a member's private life constitutes a breach of the code
 - (iv) abolishing the mandatory requirement imposed upon members to report allegations of misconduct to the Standards Board so as to reduce the number of vexatious complaints.
- (g) incorporate into the Code of Conduct the following: -
 - (i) a clearer balance between the need for an authority to protect genuinely confidential information and member rights to make information available in the public interest taking into account the provisions of the Freedom of Information Act.
 - (ii) a specific provision that sets out that bullying behaviour constitutes a breach of the code.

The Government also commends the use of the Audit Commission / Standards Board Ethical Governance Audit tool and facilitated workshop for local authorities to self assess their arrangements for ensuring ethical standards.

3.2 Local Government Employees

The main proposals are as follows: -

- (i) a code of conduct is issued for local government employees to be incorporated into each employee's contract of employment,
- (ii) the current principle that senior and sensitive posts should be politically restricted should be retained. However, consideration is to be given to the amendment of existing rules to ensure the restriction only applies as to the most senior or sensitive posts.
- (iii) the post of Independent Adjudicator should be discontinued and the local Standards Committees should make decisions on posts exempt from restrictions,
- (iv) the current rate of pay for political assistants should be raised by Statutory Instrument to spine point 44 and future increases to be permanently linked to local government pay scales by primary legislation to a scale between points 44 and 49.

4 STEPS PROPOSED TO BE TAKEN TO ACHIEVE PROPOSED CHANGES AND TIMESCALE

4.1 Legislative Changes

(a) Local Councillors and Monitoring Officers

ISSUES FOR SECONDARY LEGISLATION	ISSUES FOR PRIMARY LEGISLATION
All Chairs to be independent and Committees to include independent members who reflect a balance of experience	Initial Assessment of all allegations of misconduct to be undertaken by Standards Committees rather than Standards Board
Monitoring/reporting requirements for Standards Committees so that the Standards Board can check on progress	Local Monitoring Officers to investigate most cases and Standards Committees to determine most cases

	The 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 providing powers for Standards Committee to impose higher penalties to reflect the need to address more serious cases

(b) Local Government Employees

ISSUES FOR SECONDARY LEGISLATION	ISSUES FOR PRIMARY LEGISLATION
Issue a code of conduct for local government employees	Retain current rules requiring senior and sensitive posts to be politically restricted but ensure that the restriction only applies to the most senior or most sensitive posts.
	Abolish the post of Independent Adjudicator – provide for local Standards Committees to make decisions on politically restricted posts exempt from political restrictions.
Update current rate of pay of political assistants by Statutory Instrument to spine point 44	Amend the 1989 Housing and Local Government Act to allow for the pay rate to be permanently linked to a scale between spine point 44 and 49 with no further need to issue a Statutory Instrument each time the note is increased

4.2 Proposed capacity building measures and support to Members and Monitoring Officer

4.2.1 The Government recognises that there is a need for capacity building measures and support to be provided to Standards Committees and Monitoring Officers before the new regime comes into effect so as to enable Local Authorities to take on the proposed new responsibilities. It is proposed, therefore, that the Government work with the Standards Board to provide guidance to Standards Committees and Monitoring Officers to discharge their new roles. However, the Government has stated that local authorities will need to do more to ensure Monitoring Officers and Standards Committees are (1) properly supported (2) are of the appropriate quality and (3) are able to promote high standards of conduct throughout the authority so that the requirement to address conduct issues is embedded in every aspect of Council's work.

4.2.2 Joint Working

The Government is to consider with the Standards Board the most effective way to promote joint working and co-operation between local authorities e.g. the sharing of Monitoring Officers and joint recruitment exercises for independent members, so as to enable authorities to carry out their new roles. This may include the imposition of a statutory requirement for Standards Committees to co-operate or a requirement to work together jointly.

4.2.3 Political Leaders and Senior Managers

It is proposed that the Standards Board will undertake work with other key stakeholders to support leaders and Chief Executives of authorities to ensure that concern about standards is embedded as crucial to a well-run authority. This will include the provision of better and earlier induction of members and staff in their roles. Further the Board will liaise with political leaders to emphasise to them the damaging effect politically inspired allegations have upon the public's perception of local government.

4.2.4 Timescale

No timescale has been fixed for the introduction of the proposed changes, however, as stated in paragraph 2.3 above it is intended to seek legislative changes at the next convenient opportunity that Parliamentary time allows.

5. RESOURCES

An increase in staffing resources above the current levels will be required to support (1) the investigatory role of the monitoring officer and (2) the operation of the Standards Committee. In addition, there will be a need for members and officers to undergo training prior to the proposed changes being implemented.

6. RECOMMENDATIONS

Members give consideration to the proposals.

ASHLEY ROCKS-MENON
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Background Papers: - Discussion Paper –Standards of Conduct in English
Local Government: The Future – ODPM – 15/12/05