

Item 8

REPORT TO COUNCIL

24TH FEBRUARY 2006

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

SUMMARY OF CHANGES TO STANDARDS ARRANGEMENTS: “STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE – DECEMBER 2005”

1. SUMMARY

- 1.1 This report summarises the recently published discussion paper by the Government, “Standards of Conduct in English Local Government: the future – December 2005”. It sets out a vision and regime for the future, dramatically changing the roles of the Standards Board, Local Standards Committees and duties of the Monitoring Officer.
- 1.2 The vision for the future regime responds to a series of recent recommendations, reviews and consultations relevant to conduct in local Government, incorporating the Government’s response to Chapter 3 of the tenth report of the Committee on Standards in Public Life (Graham Committee) and the report published by the ODPM Select Committee: “The Role and Effectiveness of the Standards Board for England”.
- 1.3 The vision is for the different elements of the conduct regime, for example, the Members’ Code of Conduct, the Standards Board and Local Standards Committees to work effectively together and be integrated as a whole.

2. RECOMMENDATION

- 2.1 That full Council be appraised of the report; that both the Leader and the Chief Executive raise concerns via national bodies about the lack of proposals for additional public funding for the transfer of responsibilities from the Standards Board to local authorities.

3. DETAIL

- 3.1 **Local Code of Conduct:** The Government’s response to these recommendations reflects the fact, as noted by the Graham Committee, that English local Government has a strong record of high standards of conduct and the aim is to maintain and improve this standard.

- 3.2 The Government responded positively to the recommendations aimed at the Members Code of Conduct confirming the need to:
- Make the code clearer and simpler but still maintain a rigorous approach to serious misconduct.
 - Amend the regime for declaring interests and speaking at council meetings.
 - Make changes to the arrangements for determining whether conduct in private life should fall within the ambit of the code.
 - Amend the rules on the reporting of allegations to reduce the number of vexatious complaints by making a simpler and more proportionate document.
- 3.3 The Government further commented on the need for a clearer balance to be set between the need for an authority to protect confidential information and the rights of Member's to make information available in the public interest. This is in the light of the Freedom of Information Act.
- 3.4 It has been confirmed that clarification is to be sought in relation to bullying and the Code of Conduct. The recommendation is that a specific provision should be added into the Code to clarify that bullying behaviour constitutes a breach of the Code and that it should "play no part in the local Government world".
- 3.5 **Standards Committees:** The Government's view is that there will be considerable benefits in the introduction of a more localised decision-making process. However, in order to ensure the independence and thoroughness of such a system there is a fundamental need to encourage the building up of the capacity and capability of the Standards Committee to undertake their new role.
- 3.6 The Standards Committee will be at the heart of the decision-making regime; the initial assessment of all allegations of misconduct will be conducted by the Standards Committee and no longer by the Standards Board.
- 3.7 The Monitoring Officer will undertake investigation of most allegations and the Standards Committee will make determination on most cases. Although, the most serious cases will be referred back to the Standards Board for investigation.
- 3.8 The idea behind a more locally based regime is to provide an appropriate way for local knowledge of the authority and its Members to be intertwined into the decision-making process. Subsequently, this will allow the skills and the experience of the Monitoring Officer to be used more effectively and allow the opportunity to identify politically inspired or vexatious complaints.

- 3.9 The Government accepts the recommendation that all Standards Committees should have an independent chair, thus changing the composition of the Committee. However, the Standards Committee is not required to consist of a majority of independent Members but the Members must reflect a balance of experience.
- 3.10 The Standards Committee will continue to include Parish Members where appropriate in its Committee, so that Parish interests continue to be represented.
- 3.11 New provisions will be put in place to allow Standards Committees to impose higher penalties in order to reflect the need to address the more serious cases.
- 3.12 **Standards Board for England:** Due to the localisation of decision-making there is a consequential effect on the role carried out by the Standards Board. Currently 50% of cases are referred for investigation and determination at a local level and the aim is to continue and increase the number of cases referred for local action. A revised conduct regime is to develop out of trends already under way.
- 3.13 The changes will mean the evolution of the Standards Board into “a strategic, arms length body dealing only with the most serious cases nationally”. The Board will develop a specific role that will support, advise and guide local authorities.
- 3.14 The Standards Board will define exactly what will be expected of the standards regime including the roles of the Monitoring Officer and the Standards Committee.
- 3.15 Arrangements are to be put in place for Standards Committees to report to the Board on how they are undertaking their new role. Suggestions for these arrangements include the submission of annual reports to the Board or for the Board to take a risk-based approach to ensure Standards Committees are acting effectively with particular focus on perceived poor performers.
- 3.16 It is intended that where a Standards Committee is not acting in the public interest, the Board will intervene to withdraw the Committees’ powers, resulting in the referral of the case back to the Board. However, it is stressed that there is a need for clear guidelines and criteria in order to remove an authority’s powers.
- 3.17 The Board will set out a framework of training requirements, producing guidance material to trainers, setting minimum requirements for Monitoring Officers and Standards Committees and supporting self-assessment by authorities in order to prevent misconduct happening in the first place.

- 3.18 All the above recommendations require changes to both secondary and primary legislation. The Standards Board has commented that the timescale for which legislation will be in place for a local filtering system is not liable to happen until 2008, subject to the views and debate, which arise from this discussion paper. The intention is to seek primary legislation at the next opportunity as Parliamentary time allows.
- 3.19 A number of the proposals can be implemented in quicker time through secondary legislation. The Government has said that it will “look to make the changes as soon as is practicable”. However, the idea is to provide for a phased introduction of the measures and a realistic timetable is to be agreed with stakeholders to implement the adopted changes.
- 3.20 Significantly, changes to the Code of Conduct may be implemented from May 2006.
- 3.21 **Effects the Changes will have on Local Authorities:** The Government has highlighted the fact that local decision-making will increase the workload of some authorities, particular District Councils with large numbers of Parishes. The Standards Board has therefore proposed allowing Standards Committees to combine, for example, to have countywide Committees to assess Parish cases, resulting in the burden being shared between authorities.
- 3.22 By increasing the contribution made by independent Members on Standards Committees, there is the concern about variability of capacity and experience of such Members. It has been expressed that already some authorities are having difficulty in recruiting sufficient numbers. Consequently, the requirement for more Members to be independent will mean these difficulties will deepen.
- 3.23 The Government appreciates the benefits there will be for authorities to work closely together, for example to share information or share Monitoring Officers’ services. The intention is for the Government to liaise with the Standards Board to consider the most effective way to promote joint working and cooperation and whether a statutory requirement should be imposed in order for Standards Committees to cooperate or even a requirement for them to work together jointly.

4. RESOURCE IMPLICATIONS

- 4.1 No financial implications have been specifically identified at this early stage. Nonetheless it is anticipated that there will be significant implications resulting from this transfer to the Council of the Standards Board’s responsibility for conducting investigations and determination. Accordingly, further reports will follow in due course.
- 4.2 Significantly, the Government have not made proposals to commit additional funding to local authorities to carry out these new functions. This is a particular concern likely to be shared by all authorities in meeting these additional tasks.

5. CONSULTATIONS

- 5.1 This report has been considered by Management Team on 30th January 2006.
- 5.2 The Standards Committee have been made aware of the future changes.

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Wards: N/A

Key Decision Validation: N/A

Background Papers

Office of the Deputy Prime Minister: "Standards of Conduct in English Local Government: The Future" – December 2005.

Government Response to the Recommendations in Chapter 3 of the 10th Report of the Graham Committee on Standards in Public Life – Getting the Balance Right – Implementing Standards of Conduct in Public Life.

Government Response to the Recommendations of the ODPM Select Committee's Report on the Role and Effectiveness of the Standards Board for England

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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