

STANDARDS COMMITTEE

Thursday,
7 April 2005
2.00 p.m.

Council Chamber,
Council Offices, Spennymoor

AGENDA and REPORTS

AGENDA

1. APOLOGIES

2. DECLARATIONS OF INTEREST

To notify the Chairman of any items that appear later in the agenda in which you may have an interest.

3. MINUTES

To confirm as a correct record the Minutes of the meeting held on 10th February 2005. (Pages 1 - 4)

4. STANDARDS TRAINING UPDATE

Oral report of the Council's Monitoring Officer.

- Training Forum: 24th February 2005.
- Planned Training Forum: 8th April 2005.
- Other Events: -
 - 26th May 2005: Newcastle.
 - 5th and 6th September 2005: Fourth Annual Assembly of Standards Committees, Birmingham.

5. REVIEW OF STANDARDS ARRANGEMENTS: STAFFING SUPPORT FOR THE COUNCIL'S MONITORING OFFICER: CHANGES TO STANDARDS COMMITTEE: CHANGES TO CONSTITUTION

To receive and be appraised of the Council's Monitoring Officer's attached report. (Pages 5 - 8)

6. STANDARDS BOARD FOR ENGLAND: A CODE FOR THE FUTURE: REVIEW/CONSULTATION

To consider the attached report of the Council's Monitoring Officer. (Pages 9 - 10)

7. DATE OF NEXT MEETING

To be confirmed at a later date.

8. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

Members are respectfully requested to give the Chief Executive Officer notice of items they would wish to raise under the heading not later than 12 noon on the day preceding the meeting, in order that consultation may take place with the Chairman who will determine whether the item will be accepted.

N. Vaulks
Chief Executive Officer

Council Offices
SPENNYMOOR
30th March 2005

L. Petterson (Chairman)

Councillors Mrs. B. Graham, A. Gray, Mrs. L. Hovvels, G.M.R. Howe and J. Wayman J.P

Councillor J. Marr (Spennymoor Town Council)

Mr I. Jamieson (Independent Member)

Background Documents:

List of written advice issued by the Monitoring Officer since the previous meeting:

- | | |
|---------------|---|
| MO54 | - Advice to Members and Officers: Conflicts of Interest/Consultation:
11/02/05 |
| MO55 | - Consultation by Standards Board: Code of Conduct Review: 10/03/05 |
| MO/SBC/CONS/6 | - Changes to Constitution approved by Council: 25/02/05: issued
18/03/05 |

ACCESS TO INFORMATION

Any person wishing to exercise the right of inspection in relation to this Agenda and associated papers should contact
Miss. Sarah Billingham, Spennymoor 816166, Ext 4240

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Item 3

SEDGEFIELD BOROUGH COUNCIL

STANDARDS COMMITTEE

Council Chamber,
Council Offices,
Spennymoor

Thursday,
10 February 2005

Time: 2.00 p.m.

Present: Councillor J. Wayman J.P (Chairman) and
Councillors Mrs. B. Graham and A. Gray

Spennymoor Town Council
Councillor J. Marr

Independent Member
Mr. I. Jamieson

Apologies: Councillors Mrs. L. Hovvels, G.M.R. Howe and
Mr. L. Petterson

ST.17/04 DECLARATIONS OF INTEREST
There were no declarations of interest.

ST.18/04 MINUTES
The Minutes of the meeting held on 21st October, 2004 were confirmed as a correct record and signed by the Chairman.

ST.19/04 STANDARDS TRAINING UPDATE
21st January 2005 – Standards Event
I. Jamieson explained that he had attended the above event and gave details of how the day had been structured.

It was pointed out that consideration had been given to the Code of Conduct, specifically those areas that could be considered as bringing an authority into disrepute. The event also had included a mock hearing, which highlighted the important role of the Monitoring Officer.

Planned Member Training – Standards Update

It was explained that invitations detailing 3 dates, 24th February, 23rd March and 8th April 2005, had been circulated to all Members of the Council. The Monitoring Officer had received a number of responses for all the dates, therefore confirmation would be issued in the future as to when the training would take place.

Standards Board
26th May, 2005

The Monitoring Officer explained that Members would need to nominate a person to attend the event as only three tickets had been issued. It

was pointed out that a number of Members were interested in attending the event and had asked the Monitoring Officer to request a further three tickets. It was agreed that the Monitoring Officer would attempt to get the extra tickets and would advise individual Members as to whether they would be available.

5th and 6th September 2005

Members were informed that a report would be submitted to a future Cabinet in order to select a Member to attend.

ST.20/04

COUNTY DURHAM MONITORING OFFICERS GROUP

Members were informed that the Council's Monitoring Officer had recently attended and chaired the above Group on 7th January 2005.

It was explained that during the group meeting discussion had been held regarding training and workshops that would be available. Consideration had also been given to the role of the Monitoring Officer and the majority of authorities had stated that their preferred option would be to enlist the help of an outside organisation when dealing with investigations to prevent potential conflicts of interest.

The next meeting of the Group would be held in April and updates would continue to be brought to the Standards Committee.

ST.21/04

SUMMARY OF THE CHANGES TO THE LOCAL AUTHORITIES (FUNCTION AND RESPONSIBILITY) REGULATIONS 2000

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the effect of a series of changes to the division of responsibilities between Cabinet and full Council. (For copy see file of Minutes).

Members were informed that the changes would cover a wide range of functions, such as decisions in relation to borrowing and capital expenditure, new planning legislation, licensing, highways, Monitoring Officers resources and overview and scrutiny.

It was explained that decisions relating to the Council's policy framework, budget, other constitutional and quasi legislative functions, as well as determining an application from a person regarding a licence approval, consent, permission, registration, or direct regulation of a person with any related enforcement actions would be the responsibility of the Council. All other functions would be the responsibility of Cabinet.

Specific reference was made to the requirement of the appointment of staff to support the Monitoring Officer. Members commented that the correct professional support needed to be provided in order for the Monitoring Officer to carry out the extra responsibilities. It was suggested that a report regarding staffing and resource implications be prepared and submitted to Council.

RECOMMENDED: (1) *That a report regarding staffing and resource implications be prepared and*

submitted to Council.

(2) That full Council considers the Report, approve the above and delegate to the Monitoring Officer responsibility to amend the Constitution to take account o the changes.

ST.22/04

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

Consideration was given to a report of the Chief Executive Officer setting out details of the Council's Constitution that required immediate change. (For copy see file of Minutes).

It was explained that the Council's Constitution had been adopted on 24th May 2002, however it needed to be reviewed regularly to ensure that it reflected existing law and its operation continued efficiently and effectively in delivering the Council's aims and objectives.

RECOMMENDED : *That Council approves the amendments set out in the Appendix and directs the Council's Monitoring Officer :*

- (a) To amend the Constitution accordingly and make all necessary and consequential amendments; and*
- (b) To publish an amended version on the Council's website.*

ST.23/04

INTRODUCTION OF CHANGES TO THE ETHICAL STANDARDS ARRANGEMENTS UNDER THE LOCAL GOVERNMENT ACT 2000 - THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004 AND THE STANDARDS BOARD FOR ENGLAND (FUNCTIONS) ORDER 2004

Consideration was given to a report and slide presentation of the Solicitor to the Council and Monitoring Officer. (For copies see file of Minutes).

Members were informed that new Regulations would enable the Standards Board Officers to refer cases down four different paths, including directly to the Council's Monitoring Officer for investigation. Details regarding the types of cases that would require investigation by the Monitoring Officer, procedures, hearings and penalties were also given.

RECOMMENDED: *(1) That Council delegates responsibility to the Monitoring Officer to amend the Constitution to take account of the changes. (Report at Item 8 refers).*

(2) That the Monitoring Officer appraises Members of changes and subsequent

guidance when made available.

ST.24/04 PROPOSALS FOR LARGE SCALE VOLUNTARY TRANSFER OF COUNCIL HOUSING STOCK

Consideration was given to two reports prepared by the Council's external legal advisers, Trowers and Hamlins. (For copies see file of Minutes).

Conflicts of Interest and Decision-Making Arrangements

It was explained that the report detailed how Members should be appropriately advised when dealing with conflicts of interest during the Large Scale Voluntary Transfer process.

LSVT Consultation – Further Guidance to Members

Members were informed that the purpose of the report was to provide guidance on a number of issues relating to the proposed LSVT, particularly regarding the provision of information during the consultation process.

RECOMMENDED : That the information be received and distributed to Members and Officers.

ST.25/04 DATE OF NEXT MEETING

7th April, 2005 at 2.00 p.m. in Conference Room 1, Council Offices, Spennymoor.

Any person wishing to exercise the right of inspection, etc., in relation to these Minutes and associated papers should contact Miss. Sarah Billingham, Spennymoor 816166, Ext 4240

Item 5

REPORT TO STANDARDS COMMITTEE

7TH APRIL 2005

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

REVIEW OF STANDARDS ARRANGEMENTS : STAFFING SUPPORT FOR MONITORING OFFICER : CHANGES TO STANDARDS COMMITTEES : CHANGES TO CONSTITUTION

1. SUMMARY

- 1.1 This report follows a series of reports to the Council's Standards Committee, Cabinet and full Council since 2002, reporting upon the development of the provisions of Part III of the Local Government Act 2000 relating to standards arrangements for Council members.
- 1.2 Following the introduction in November 2004 of regulations to provide for local investigation by Monitoring Officers of member misconduct, a review has taken place of the Council's arrangements in light of the significant changes brought about by these regulations. In particular, it should be noted that a significant transfer of responsibility for investigations of Parish and Borough Members has been transferred to the Borough Council who, henceforward, will be responsible for all local investigations of Parish and Town Council members.
- 1.3 The detail of the report sets out the reasons for specific changes to ensure that the Council is both able and capable of meeting the demands and requirements which the Council will face. In particular, recommendations are made with respect to additional staffing support being provided to the Monitoring Officer, support specifically for the Standards Committee and the establishment of new sub-committees for the Standards Committee to undertake the additional duties and responsibilities.

2. RECOMMENDATIONS

- 2.1 That Standards Committee be appraised of the report.
- 2.2 That Cabinet and Council receive further reports.

3. DETAIL

- 3.1 **Staffing support for Monitoring Officer:** Complaints of alleged member misconduct, under the new arrangements, may now be directed either to the Standards Committee for a local determination or direct to the Monitoring Officer for investigation and then come before the Standards Committee.

- 3.2 The Council's Solicitor and Monitoring Officer regularly advises all members, including the Cabinet Executive, on a range of standards and personal member issues. This responsibility could, in some circumstances, give rise to potential for professional conflicts of interest, which would preclude him from advising the Standards Committee should matters be referred to it for determination.
- 3.3 Accordingly, it is necessary to ensure within the establishment that some other suitably qualified officer exists who would be able to assume the Monitoring Officer's responsibilities in such circumstances, or in his absence.
- 3.4 For these reasons, this report recommends that the Principal Assistant Solicitor be authorised to act in such circumstances, albeit not concurrently with the Monitoring Officer, so as to provide the necessary capacity within the establishment to resolve these issues.
- 3.5 Specifically, therefore, it is recommended that the Principal Assistant Solicitor undertake the Monitoring Officer's statutory responsibilities as designated Deputy Monitoring Officer:
- (a) in his absence, or if ill, and
 - (b) where it is considered that professional conflicts of interest may or might arise, such as the Monitoring Officer has identified.
- 3.6 Under the legislation both the Monitoring Officer and the Deputy are under a personal responsibility for conducting these duties. The statutory provisions provide under Section 82A(4) and (5) of the Local Government Act 2000, as amended by the Local Government Act 2003, as follows:-
- Certain functions of the Monitoring Officer may be delegated under Part III of the Act of 2000, in particular, the undertaking of investigations, Section 60(2), the receipt of reports from Ethical Standards Officers, Section 64(2) and such other matters as the Monitoring Officer may from time to time determine where he, himself, may not be able to perform particular functions. In those cases a person nominated for the purpose by the Monitoring Officer may act as a substitute.
 - Where a Deputy nominated by the Monitoring Officer under Section 5(7) of the Local Government and Housing Act 1989 considers that in a particular he, himself, ought not to perform those functions while the Monitoring Officer continues to be unable to act either by reason of absence or illness, they may be carried out by a person nominated by the Deputy.

No Deputy has yet been appointed under the 1989 Act in order to deal with professional conflicts of interest or in circumstances where the Council's Monitoring Officer is absent or ill. Accordingly, this report, and subsequent reports, will enable the Council to deal with those situations should they arise. A further report will accordingly be submitted to Cabinet and Council for approval.

- 3.7 **Staffing support for Monitoring Officer at Standards Committee:** The role and range of duties and responsibilities of the Standards Committee have changed rapidly in recent years. The Committee is expected to carry out a series a statutory functions, including advising the Council on constitutional change, the provision of training to members on standards and, latterly, the conduct of determination hearings and hearings following the production of Monitoring Officer's reports. They have both statutory and regulatory responsibility for ensuring the smooth administration of the processes associated with arranging local hearings and investigations.
- 3.8 As a result of the most recent changes, the Standards Committee is now responsible for hearing all cases involving Parish and Town Council members. Sedgefield Borough is a fully parished Borough Council administrative area. It is therefore appropriate to consider and review requirements for support to the Standards Committee. It is therefore intended that staffing reports be submitted to Cabinet and Council for approval.
- 3.9 **Changes to Standard Committee arrangements:** Section 54A of the Local Government Act 2000, as amended by Section 113 of the Local Government Act 2003, permits a Standards Committee of an authority to appoint a sub-committee with full delegated powers to discharge any of its functions. This new power does not apply to Standards Committee's functions in connection with Parish members for which provision to establish sub-committees is already in existence under Sections 55 and 56 of the Act 2000. Section 54A, as amended, enables the existing Standards Committee to appoint "from among the members of the Standards Committee", sub-committees: the number of members of a sub-committee and the term of office of those members are to be fixed by the Standards Committee by which the sub-committee is appointed. It is considered appropriate to use these provisions to facilitate the setting up from time to time of sub-committees as and when necessary to carry out functions in connection with local hearings, should the need arise.
- 3.10 It is therefore recommended that the Constitution be amended to widen the Standards Committee powers accordingly.

4. RESOURCE IMPLICATIONS

- 4.1 Resource implications flow from the recommendations in this report relative to the proposals for increasing the duties and responsibilities of the Principal Assistant Solicitor and the addition of support to the Standards Committee. Staffing reports will follow for Cabinet and then Council approval.
- 4.2 These changes result from new legislation and new statutory requirements being imposed upon the Council's Monitoring Officer and the Standards Committee.

5. CONSULTATIONS

- 5.1 The Standards Committee has already considered a report of the Monitoring Officer at its meeting on the 10th February 2005 detailing the most recent changes to the range of duties and responsibilities of the Monitoring Officer and the Standards Committee.

6. OTHER MATERIAL CONSIDERATIONS

- 6.1 The proposals contained in this report are intended to strengthen the Council's arrangements corporately in relation to matters of governance.
- 6.2 It has been recognised nationally, that the next round of the Comprehensive Performance Assessment will concentrate upon each Council's approach to governance and standards issues.

Contact Officer: D.A. Hall, Solicitor and Monitoring Officer
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Ward(s)

Key Decision Validation

Background Papers

Sections 60(2), 64(2), 82A(4)(5) Local Government Act 2000 (as amended by the Local Government Act 2003)

Standards Committee

ST.1/01: Part III Local Government Act 2000 – 10th April 2002

ST.5/03: Determination of Standards Allegations by Standards Committee – 4th November 2003

ST.10/03: Draft S.66 Regulations – 17th May 2004

ST.21/04 – Summary of Changes to the Local Authorities (Functions and Responsibilities) Regulations 2000 – 10th February 2005

ST.23/04: Introduction of Changes to the Ethical Standards Arrangements 2004 Regulations – 10th February 2005

Cabinet –

CAB.75/03 – Determination of Standards Allegations by the Standards Committee – 16th October 2003

CAB.110/04 – Introduction of Changes to the Ethical Standards Arrangements under the Local Government Act 2000 : The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 and the Standards Board for England (Functions) Order 2004 – 9th December 2004

Council

C.54/03 – Determination of Standards Allegations by the Standards Committee – 7th November 2003

C.73/04 - Summary of Changes to the Local Authorities (Functions and Responsibilities) Regulations 2000 – 25th February 2005

C.74/04 - Introduction of Changes to the Ethical Standards Arrangements under the Local Government Act 2000 : The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 and the Standards Board For England (Functions) Order 2004 - 25th February 2005

C.75/04 - Arrangements for Review of the Constitution – 25th February 2005

Item 6

REPORT TO STANDARDS COMMITTEE

7TH APRIL 2005

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

STANDARDS BOARD FOR ENGLAND : A CODE FOR THE FUTURE : REVIEW/CONSULTATION

1. SUMMARY

- 1.1 The Standards Board for England is reviewing the Code of Conduct and is embarking upon a consultation exercise.
- 1.2 The Code has been in force for nearly three years and it is considered appropriate to examine its effectiveness and address any issues that have given rise to debate within the local government community.
- 1.3 The purpose of this report is to invite comment from Management Team, Cabinet, Standards Committee and Council and to make submissions to the Board corporately regarding any comments which the Council may wish to make.
- 1.4 The closing date for submissions is the 17th June 2005.
- 1.5 It is proposed that the Council's Solicitor and Monitoring Officer shall carry out the review exercise and submit a corporate response on behalf of the Council. Members and Officers may, of course, submit their personal responses themselves direct.

2. RECOMMENDATIONS

- 2.1 That Standards Committee considers the report and offer recommendations to the Council, in the light of the Statutory Officers' views.

3. DETAIL

- 3.1 The Standards Board have issued a Consultation Paper, including a list of questions regarding the effectiveness of the Code of Conduct. A detailed paper can be downloaded at [www.standardsboard.co.uk / code review](http://www.standardsboard.co.uk/code_review). In essence, however, the key questions are set out in the accompanying document entitled "A Code for the Future".
- 3.2 In particular, the Board have invited comment upon a number of key areas:-
 - Disrespect and freedom of speech
 - Confidential information
 - Disrepute and private conduct
 - Misuse of resources

- The duty to report breaches
- Personal interests
- Prejudicial interests
- Registration of interests
- Gifts and hospitality

- 3.3 The review has been requested by Government in September 2004. The Right Honourable Nick Raynsford, MP, Minister of State for Local and Regional Government, stressed that the Government does not wish to dilute the underlying principles of the Code of Conduct but rather to seek to see what lessons may be learned from experiences of working with it.
- 3.4 The Standards Board will be consulting everyone who has an interest in the Code of Conduct and welcomes responses from all in the local government community, not just members, but also officers and other groups in the local government family.
- 3.5 Based on responses, the Board will make a number of recommendations to the Office of the Deputy Prime Minister and share these with local government representatives. It will also publish a summary of responses on the Standards Board website.
- 3.6 It is a matter for the Minister of State for Local and Regional Government to consider the Government's response and make any changes to the Code of Conduct as they see fit. It is expected that any changes to the Code will be agreed by the end of 2005.
- 3.7 The Council's Monitoring Officer will make an oral report of the views of the Statutory Officers following their meeting on 29th March 2005.

4. FINANCIAL IMPLICATIONS

- 4.1 None specifically noted.

5. CONSULTATION

- 5.1 See detail of report.

Contact Officer: Dennis A. Hall
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Background Papers

Standards Committee – 10th April 2002:

ST.1/01 - Report of Solicitor and Monitoring Officer : recommendation of adoption of Model Codes of Conduct (Borough/Parish)

Council Meeting – 19th April 2002:

Report of Solicitor and Monitoring Officer : Adoption of Model Code (Borough Council)