

STANDARDS COMMITTEE

Thursday,
7 July 2005
1.00 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 7th April 2005. (Pages 1 - 4)

4. STANDARDS TRAINING UPDATE

Oral report of the Council's Monitoring Officer : planned events :

- 29th June 2005 – Shildon Town Council
- 5th and 6th September 2005 – Fourth Annual Assembly of Standards Committees, Birmingham

5. REPORT ON STANDARDS BOARD ROADSHOW 2005 : NEWCASTLE : 26TH MAY 2005

To consider the attached report of the Council's Monitoring Officer. (Pages 5 - 8)

6. DISCUSSION PAPER: CONSTITUTIONAL REVIEW: MEMBER INVOLVEMENT

To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 9 - 16)

7. DATE OF NEXT MEETING

3rd November 2005 at 1.00 p.m. in the Council Chamber, Council Offices, Spennymoor.

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.

Council Offices
SPENNYMOOR
29th June 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:

- MO56 - Latest Standards Board Bulletin
- MO57 - Letter to Borough Council Members, Parish and Town Council Members, re. Updating Registers of Interests, Gifts and Hospitality
- MO/SBC31 - Advice on dismissal procedures
- MO/SBC32 - Employment references under the Data Protection Act 1998: Advice
- MO/SBC/CONS7 - Proposed changes to the Constitution

ACCESS TO INFORMATION

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

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Item 3

SEDGEFIELD BOROUGH COUNCIL

STANDARDS COMMITTEE

Council Chamber,
Council Offices,
Spennymoor

Thursday,
7 April 2005

Time: 2.00 p.m.

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

Spennymoor Town Council
Councillor J.Marr

Independent Member
Mr. I. Jamieson

Apologies: Councillors G.M.R. Howe and Mr. L. Peterson

ST.26/04 DECLARATIONS OF INTEREST

There were no declarations of interest.

ST.27/04 MINUTES

The Minutes of the meeting held on 10th February, 2005 were confirmed as a correct record and signed by the Chairman.

**ST.28/04 STANDARDS TRAINING UPDATE
24th February and 8th April 2005**

The Council's Monitoring Officer explained that the training held on 24th February 2005 had taken place and had been positively received. It would be repeated on 8th April 2005 for any Members who had not been able to attend the previous date.

Details were given as to what had been and would be covered in the training, including consideration of the new guidance issued to Monitoring Officers and Standards Committees on Local Investigations, Guidance for Members for Lobby Groups, Dual Hatted Members and the Code of Conduct and the new/proposed Planning Code of Good Practice.

Members questioned whether invitations to attend training were extended to Town and Parish Councils. It was explained that invitations had been distributed to all Town and Parish clerks together with the suggestion that the Councils Monitoring Officer hold the presentation at their offices.

26th May, 2005

Members were reminded that three tickets had previously been obtained for the event, which the Monitoring Officer was later informed would be the maximum amount offered to Local Authorities, however as Members had

expressed so much interest the Monitoring Officer had requested a further three tickets.

The Monitoring Officer would confirm attendance with individual Members nearer to the date.

5th and 6th September, 2005

The Committee was informed that the Monitoring Officer and Leader of the Council would attend the event.

ST.29/04

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

Consideration was given to a report of the Council's Monitoring Officer, detailing specific changes to the Constitution, to ensure that the Council is both able and capable of meeting the demands and requirements which the Council may face following the introduction in November 2004, of the regulations to provide for local investigation by Monitoring Officers of Member misconduct. (For copy see file of Minutes).

Specific reference was made to the proposed staffing implications regarding support for the Monitoring Officer, together with the appointment of a dedicated officer to support the Standards Committee itself. It was explained that as the Council's Monitoring Officer would become increasingly involved in advising Members, as well as being the clerk for Standards Committee, conflicts of interests could arise with the up and coming changes. The appointment of a Deputy Monitoring Officer would therefore help in reducing the workload and ease the possibility of conflicts of interests arising.

It also considered the introduction of a Sub-Committee for the Standards Committee to undertake the additional responsibilities and ease the burden of conflicts of interest.

Members sought advice from the Council's Monitoring Officer regarding dual-hatted Members and where advised of best practice procedures in dealing with conflicts of interest arising.

RECOMMENDED :

1. That the report be agreed.

2. That further reports be submitted to Cabinet and Council.

ST.30/04

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

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer, which had been prepared to invite comments from Management Team, Cabinet, Standards Committee and Council during the consultation period of reviewing the Code of Conduct. (For copy see file of Minutes).

Specific reference was made to the key questions that had been issued by the Standards Board to prompt comments on the effectiveness of the current Code of Conduct.

It was explained that the Chief Executive Officer, Director of Resources and the Solicitor to the Council had prepared a corporate response to the questions and would be submitting them to the Standards Board, (for copy see file of Minutes). Members were informed that the Standards Board welcomed responses from anyone with an interest in the Code of Conduct within local authorities and were invited to submit personal responses to them directly.

Once the consultation period had been passed the Standards Board would prepare a number of recommendations to put forward to the Office of the Deputy Prime Minister.

It was noted that the Monitoring Officer would submit a further report to Council on the 22nd April, 2005.

RECOMMENDED : That the report be agreed.

ST.31/04

DATE OF NEXT MEETING

It was explained that a future date would be confirmed at Annual Council on 20th May, 2005.

Members questioned whether the time of the meeting could be moved forward an hour earlier to 1.00 p.m. It was explained that with the agreement of the Chairman the meetings could be held at that time.

ACCESS TO INFORMATION

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

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Item 5

REPORT TO STANDARDS COMMITTEE

7TH JULY 2005

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

STANDARDS BOARD ROADSHOW 2005 : NEWCASTLE : 26TH MAY 2005

1. SUMMARY

- 1.1 This report summarises the event attended by Standards Committee members held by the Standards Board on the 26th May 2005 at the Marriott Hotel, Newcastle.
- 1.2 The purpose of the event was to review the Code of Conduct, to highlight key issues for members and to share early experiences of local investigations and hearings as the ethical agenda takes an increasing local focus. Attendees were also invited to share their views on the review of the Code of Conduct which had previously been announced (see report of the Monitoring Officer to Standards Committee on the 7th April 2005).
- 1.3 Representatives of the Standards Board for England were present at the event, including the Chief Executive, David Prince, and Standards Board Member, Roger Taylor.

2. RECOMMENDATIONS

- 2.1 That the Standards Committee considers the report and the views expressed therein.

3. DETAIL

- 3.1 A number of views were expressed by the Standards Board during the course of the introductory session:-
 - The link between excellent services and high ethical standards was expressed to “go hand in hand”.
 - Ethical behaviour is about the relationship between members and their communities.
 - Standards Committees must be fit for purpose and that there is a need for a local focus and a national regulator.
- 3.2 Board Member, Roger Taylor, emphasised the need for a local focus on ethical issues. The following aspects of the ethical standards regime had been transferred to local ownership:

- Local hearings.
- Local investigations.

Standards Committees were described as the bedrock of the ethical agenda locally.

- 3.3 Roger Taylor also laid emphasis upon the “bigger picture”, that the role of the Standards Committees was much broader than merely dealing with investigations and hearings. “Standards Committees and Monitoring Officers can have a positive impact upon the authority, Town and Parish Councils, the public perception and local democracy generally”.
- 3.4 Comment was made upon the findings of the Graham Inquiry and the Board has already responded by agreeing that there is a need:
- for independent, fit for purpose Standards Committees.
 - to review the Code of Conduct.
 - to recognise a strategic role for Standards Committees.
 - for a single code for all tiers of local government.
- 3.5 Significantly it was mentioned that there is a need to consider whether there should be a local filter for all allegations rather than a nationally based arrangement, as at present.
- 3.6 Comment was also made with regard to the ODPM Select Committee. It was agreed that in developing the Standards regime so far, incomplete legislation had led to delays; there was also a need for greater communication direct with Parish Councillors; the Board’s website policy needed to be reviewed and member training should be re-assessed.
- 3.7 The basis of the future changes is likely to envisage that the Standards Board will be retained as a central filter, particularly for false allegations which do not involve a specific breach and that there will be early notification of members complained against.
- 3.8 David Prince, Chief Executive of the Standards Board, discussed in more detail the issue of whether there should be a local or central filter for all investigations: the key principle was described in terms of whether there might be an impact upon public confidence if local authorities decided which allegations they investigate. The key issues were described as including:-
- How long would it take for Standards Committees to process new allegations.
 - Would there be a conflict of interest.
 - Would new resources be available.
 - It was also mentioned that there was difficulty experienced by local authorities in attracting candidates for the independent members positions.

- 3.9 David Prince commented that since the 2004 Standards Committees Conference, between 25% and 30% of all cases were referred for investigation by them. Cases were assessed for referral within ten days and more than half of all cases were being dealt with at a local level.
- 3.10 During the questions and discussions section of the event, emerging issues relating to the current Codes of Conduct were discussed. The review period closes in June 2005 with recommendations being placed before the ODPM in the Autumn. All sections of the current Codes of Conduct are up for consultation and written Council responses are being encouraged.
- 3.11 Emerging issues were identified as follows:-
- Whether the Code of Conduct should reflect a vision of modern local government governance.
 - Whether there was a need for greater simplicity and clarity.
 - Whether it effectively promotes good behaviour.
 - Whether it should include an anti-bullying statement.
 - Whether it should develop the role of councillors as community advocates.
 - Whether there should be an explicit public interest defence for whistleblowers.
 - How confidential should be defined within the terms of the Code.
 - Whether disrepute should apply to private life as well as public and, if so, how serious should it be.
 - Whether members should be obliged to report breaches of the Code as at present.
 - Whether there were difficulties in members being campaigners as well as decision-makers.

4. FINANCIAL IMPLICATIONS

- 4.1 None.

5. CONSULTATION

- 5.1 This report has been considered by Management Team on the 27th June 2005.

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Background Papers

Member Report at 1.2 of Report.

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Item 6

REPORT TO STANDARDS COMMITTEE; CABINET; COUNCIL

7TH JULY 2005

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

DISCUSSION PAPER : CONSTITUTIONAL REVIEW : MEMBER INVOLVEMENT

1. SUMMARY

- 1.1 This report which has been considered by the Corporate Steering Group on 4th May 2005, makes proposals for arrangements to provide for the engagement of Members in the Council's processes for the review of the Constitution.
- 1.2 Officer arrangements, via the Constitutional Review Group, headed by the Council's Solicitor and Monitoring Officer, are now embedded within the process of review.
- 1.3 These proposals will go further and ensure that all Members, particularly Cabinet Executive and Overview and Scrutiny Members, will have the opportunity to play a part in the evolution of the constitutional framework of the Council.

2. RECOMMENDATIONS

- 2.1 That Standards Committee be invited to comment, Cabinet consider and comment.
- 2.2 That Council approve the report.

3. DETAIL

- 3.1 From time to time it is necessary to review and amend the Constitution to ensure that it is both updated and ensures the smooth and efficient operation of the Council's decision-making framework.
- 3.2 Article 15 of the Constitution, Review and Revision of the Constitution, provides that the operation of the Constitution will be monitored and reviewed to ensure its aims and principles are given full effect. Changes require the approval of the Council, after consideration by the Chief Executive Officer.
- 3.3 The Council's Solicitor and Monitoring Officer currently heads a team of officers which review functional and operational arrangements for decision taking, including delegations to officers, and reports are made to the Standards Committee and full Council from time to time in respect of these matters. Occasionally reviews are required to meet changes introduced by the Functions and Responsibilities Regulations issued from time to time by the Government.

- 3.4 However, it is recognised that there are a number of areas where the Council's Members may have a legitimate expectation to be engaged in reviewing certain aspects of the Constitution, e.g. rules of procedure at meetings, call-in arrangements for Overview and Scrutiny Committees and so forth.
- 3.5 For these reasons, it is considered appropriate that an opportunity is provided within the working arrangements between Cabinet and Overview and Scrutiny Committees, to establish a formal review mechanism as follows:-
- That the work schedules of Overview and Scrutiny Committee annually include an item inviting Members to identify and submit proposals for changes to the Constitution.
 - That the Chief Executive Officer be formally notified of such proposals.
 - That the Chief Executive then convene a meeting of the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee to discuss, consider and then formulate draft proposals for changes and amendments.
 - That, if necessary, such proposals form part of a report by the Chief Executive to be submitted to the Council for formal approval.

4. RESOURCE IMPLICATIONS

- 4.1 No specific financial implications have been identified.

5. CONSULTATIONS

- 5.1 This report was submitted to Management Team on the 27th June 2005 for discussion, to Cabinet and the three Overview and Scrutiny Committees for comment, to Standards Committee for comment and finally to Council for approval.
- 5.2 Since the report was considered by the Corporate Steering Group, the opportunity has been taken to consult a number of "excellent" rated authorities to compare practices: the results appear at the Appendix to this report.

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Ward(s)

Key Decision Validation

Background Papers

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
2. The content has been examined by the Council's S.151 Officer or his representative
3. The content has been examined by the Council's Monitoring Officer or his representative
4. The report has been approved by Management Team



APPENDIX

Authority	Contact	Response
Blyth Valley	info@blythvalley.gov.uk	<p>BVBC reviews its Constitution through the Standards Panel, which is charged with considering and recommending any changes to Council. We have only had one review prompted by a request from Council to consider amending the Constitution by increasing the size of the Cabinet from 8 to 9 members following a by-election change. The Panel recommended leaving the Cabinet as it was and Council changed it anyway.</p> <p>Under a more fundamental review we would be likely to have a Member Working Group to research and debate the issues as we did for the original.</p>
Darlington	democratic@darlington.gov.uk	<p>All our Constitutional amendments are approved through Full Council.</p> <p>Officer recommendations are either submitted to Cabinet and then forwarded to Full Council for approval or direct to Full Council.</p>
Durham County	Val.Lee@durham.gov.uk	<p>Like most authorities, we have a standard article in our Constitution allocating responsibility to the monitoring officer to keep the Constitution under review. Changes need to be approved by full Council after consideration by Cabinet and Scrutiny. Because of operational changes, the Constitution needs to be regularly altered but often just to reflect changes in structures etc. A general report will cover these issues. As far as Scrutiny is concerned, the Annual Report to Council considers whether Scrutiny Members are of the view that there is a need for constitutional change.</p>

Authority	Contact	Response
Easington	Barry Garside (E-mail)	<p>Established a Political Management Group. Comprises Executive Members and Chairmen of 4 Scrutiny Committees, together with Assistant CEO Head of Democratic Services, Scrutiny Manager, Monitoring Officer plus other officer as relevant.</p> <p>Have looked at amendments to the Constitution and a range of other issues including:-</p> <ul style="list-style-type: none"> • Reviewed Terms of Reference of Executive to support Community Strategy, Service Plans etc • Member Development <p>Constitutional issues have been dealt with in 2 ways:-</p> <p>Amendment suggested by Officer e.g. delegations, changes in Regulations have been reported to the Group.</p> <p>The Group has also met in 'workshops style', with other appropriate officers in attendance, to consider constitutional related issues with a view to improve management of political arrangements.</p>
Gateshead	enquiries.legalservices@gateshead.gov.uk	<p>In Gateshead we carry out an annual review of the Constitution. Formally, the route for this is Strategy Group (chief officers) > Cabinet > Council. If there are any major political issues, we would normally convene an ad hoc members advisory group but this doesn't always happen. For example, the changes in this year's review were mainly technical so we didn't undertake any consultation outside the normal process. Last year however we made some changes to the terms of reference of Overview and Scrutiny Committees on which we consulted more widely (within the Council).</p> <p>There was a great deal of member involvement in the initial approval of the Constitution including an advisory group and a number of seminars for the whole Council.</p>

Authority	Contact	Response
Hambleton	info@hambleton.gov.uk'	Officers make recommendations to the Standards Committee which makes recommendations to full Council
Hartlepool	enquiries@hartlepool.gov.uk	<p>Further to your recent e-mail, I would advise that this Council has a Constitution Committee and a Constitution Working Group with responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The membership of both bodies comprise:-</p> <ul style="list-style-type: none"> • Chair of the Council • Vice-chair of the Council • Mayor • Deputy Mayor • Scrutiny Co-ordinating Committee Chair • One other member of the Scrutiny Co-ordinating Committee • Five other members of the Council <p>Changes to the constitution will only be approved by the full Council after consideration by the Constitution Committee (an item may be considered by the Working Group prior to its consideration by the Committee)</p> <p>Members have recently requested that meetings of the Working Group and Committee be held during each Council cycle (every 6 weeks)</p>

Authority	Contact	Response
Newcastle	sandra.ord@newcastle.gov.uk	
South Tyneside	Malcolm.Newman@s-tyneside-mbc.gov.uk	
Stockton	LDS@Stockton.gov.uk	Members Advisory Panel (Evaluating the New Constitution). Operates as an informal working Group comprising 12 members. The Panel acts as a consultative forum for member discussion before changes are submitted to Cabinet / Council.
Sunderland	enquiries@sunderland.gov.uk Lee.Stoddart@sunderland.gov.uk	<p>Currently Sunderland has no formal review system for the Constitution. Parts of the constitution can come under review as part of wider reviews by Scrutiny Committee and Standards Committee recommends alterations to Council in the light of, for example, changes in advice from the Standards Board on Codes of Conduct. Changes required as a result of changes in legislation etc., are picked up by Cabinet with appropriate amendments being recommended to Council.</p>

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