

STANDARDS COMMITTEE

Thursday,
9 February 2006
1.00 p.m.

Council Chamber,
Council Offices, Spennymoor

AGENDA and REPORTS

AGENDA

1. **APOLOGIES**
2. **MINUTES**
To confirm as a correct record the Minutes of the meeting held on 3rd November 2005. (Pages 1 - 4)
3. **SUMMARY OF CHANGES TO STANDARDS ARRANGEMENTS:
"STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE
FUTURE - DECEMBER 2005**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 5 - 10)
4. **AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF
MISCONDUCT AT NATIONAL AND LOCAL LEVEL - 2005**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 11 - 16)
5. **ARRANGEMENTS FOR THE REVIEW OF THE CONSTITUTION**
To consider the attached report of the Chief Executive Officer. (Pages 17 - 22)
6. **FORTHCOMING COMPREHENSIVE PERFORMANCE ASSESSMENT: KEY
LINES OF ENQUIRY: CORPORATE OF GOVERNANCE INSPECTION:
IMPLICATIONS FOR STANDARDS AND ETHICS, FOR STANDARDS
COMMITTEE AND MEMBER TRAINING - TAKING THE ETHICS AGENDA
FORWARD**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 23 - 26)
7. **REVIEW OF CONFIDENTIAL REPORTING POLICY**
To consider the attached report of the Chief Executive Officer. (Pages 27 - 38)
8. **INDEMNITIES FOR MEMBERS AND OFFICERS IMPACT OF THE LOCAL
AUTHORITIES (INDEMNITIES FOR MEMBERS AND OFFICERS) ORDER
2004**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 39 - 42)
9. **STANDARDS TRAINING UPDATE**
To receive an oral report of the Solicitor to the Council and Monitoring Officer on future arrangements.
10. **"GOING LOCAL" INVESTIGATIONS AND HEARINGS**
To receive a DVD presentation on local hearings produced by the Standards Board for England for Standards Committee Member guidance.

11. DATE OF NEXT MEETING

6th April 2006 at 1.00 p.m. in the Council Chamber, Council Offices, Spennymoor.

12. 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
1st February 2006

Councillor 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

Monitoring Officer's Advice:

MO Series

MO66 Clearer Code on the Cards: Standards Board Bulletin
MO67 Future of Code SBE Bulletin
MO68 Standards Board Guidance: Dual-Hatted Members
MO69 Bi-Annual Review of Registers of Interests & Gifts & Hospitality
MO70 Proposed Changes: Framework Governing Standards of Conduct
MO71 Standards Board Bulletin No. 27

MO/SBC Series

MO/SBC 33 Advice Note: Preparation of Reports for Management Team

MO/SBC/CONS Series

MO/SBC CONS9 Dates for Constitutional Review
MO/SBC CONS10 Constitutional Review following Council Meeting, 25th
November 2005

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, sbillingham@sedgefield.gov.uk

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Item 2

SEDGEFIELD BOROUGH COUNCIL

STANDARDS COMMITTEE

Council Chamber,
Council Offices,
Spennymoor

Thursday,
3 November 2005

Time: 1.00 p.m.

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

Independent Member

Mr. I. Jamieson

Apologies: Councillor G.M.R. Howe, L. Petterson and
Councillor J. Marr (Spennymoor Town Council)

ST.7/05 DECLARATIONS OF INTEREST
Members had no interests to declare.

ST.8/05 MINUTES
The Minutes of the meeting held on 7th July 2005 were confirmed as a correct record and signed by the Chairman.

Specific reference was made to Minute No: ST.5/05 – Discussion Paper: Constitutional Review of Member Involvement – it was explained that the report had been considered by all three Overview and Scrutiny Committees and also by Cabinet, where it had been agreed.

ST.9/05 STANDARDS TRAINING UPDATE
Members were informed that consultation would be taking place between the Solicitor to the Council and Monitoring Officer and the Town and Parish Councils regarding their training needs. A programme of training would be produced and finalised for early next year.

Members were reminded that any training needs or areas where support was required should be identified through the Member Development Programme.

Detailed consideration was given to the procedures followed by Durham Constabulary when dealing with licensing applications, specifically when objecting. The Solicitor to the Council and Monitoring Officer informed Members that a meeting had taken place between the Chief Executive Officer and Durham Constabulary to address the issue.

ST.10/05

SUMMARY OF STANDARDS BOARD CONFERENCE: BIRMINGHAM 2005

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer, which detailed the principal messages taken from the Fourth Assembly of Standards Committees held on 5th and 6th September 2005 (for copy see file of Minutes).

Members were informed of the Standards Board recommendations regarding the review of the Code of Conduct to the Office of the Deputy Prime Minister (ODPM), together with the keynote messages of the presentation, which were delivered by David Prince, Chief Executive of the Standards Board. Reference was made to:

- The progress made since the previous years conference
- The development of the Ethical Governance Toolkit
- The CPA Key Lines of Enquiry
- The Graham Committee and the ODPM Select Committee

With regard to the key lines of enquiry for the forthcoming CPA it was explained that there would be much more focus on the links between good performance and the ethical agenda. It was pointed out that those Authorities who received an excellent outcome in performance were usually ethically sound.

Detailed discussion was raised regarding the possible increase of independent members. Members of the Standards Committee pointed out that the increase would be beneficial in providing a balance in considering local issues.

It was also questioned, in relation to training whether a mock trial hearing could be arranged for Members to become familiar with proceedings. I. Jamieson reported that he had attended such a training event at Durham County Council and had found it to be a valuable experience. It was agreed the suggestion would be examined.

RECOMMENDED: That the report be agreed.

ST.11/05

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

Consideration was given to a report of the Chief Executive Officer regarding the need to regularly review the Constitution. (For copy see file of Minutes).

Detailed consideration was given to the immediate changes that were recommended to be made to the Constitution following advice from the Council's Monitoring Officer and meetings of the Constitution Review Group.

AGREED: That Council be recommended to approve the amendments set out in the Appendix and direct the Council's Monitoring Officer to: -

a. amend the Constitution accordingly and make all necessary and consequential amendments.

b. publish and amend the version on the Council's website.

ST.12/05

DATE OF NEXT MEETING

9th February 2006 at 1.00 p.m. in the Council Chamber, Council Offices, Spennymoor.

ACCESS TO INFORMATION

Any person wishing to exercise the right of inspection, etc., in relation to these Minutes and associated papers should contact Miss. S. Billingham, Spennymoor 816166, Ext 4240, sbillingham@sidgefield.gov.uk

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Item 3

REPORT TO STANDARDS COMMITTEE

9TH 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. RECOMMENDATIONS

- 2.1 That the Standards Committee be appraised of the report and that the future changes be noted.
- 2.2 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 are to be consulted on this report and made aware of the future changes to the Standards Committee.

Contact Officer: Dennis A. Hall/Laura Starrs
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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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Item 4

REPORT TO STANDARDS COMMITTEE

9TH FEBRUARY 2006

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL - 2005

1. SUMMARY

- 1.1 This report analyses the current trends in allegations of misconduct, submitted to the Standards Board relating to misconduct by elected, co-opted and independent members of local authorities.
- 1.2 The detail of this report specifies a range of areas that are to be considered in order to establish national trend patterns.
- 1.3 The areas comprise of the number and source of allegations submitted for investigation, the type of authority whom the investigation concerns, the nature of the investigation and the final findings.
- 1.4 Focus is also placed upon complaints of misconduct that have arisen at a local level. Local trends will be determined from the nature of the allegation, the type of authority involved, the outcome of the investigation and the outcome of the decisions that have been challenged. Comment will be made upon implications for the Council in terms of its own Code of Conduct and governance.

2. RECOMMENDATIONS

- 2.1 To note the general trends in complaints of misconduct investigated at a national and local level.
- 2.2 That the Standards Committee be appraised of the report and that further similar reports be made annually.

3. DETAIL

PART A – National Trends

- 3.1 The Standards Board for England publishes a monthly statistical digest, offering a breakdown of yearly and monthly statistics. The statistics, which have been collated, are cumulative from April 2005, and therefore cover part of the calendar year.

- 3.2 **Number of allegations:** Since April 2005 the Standards Board received 2709 complaints in total. The number of allegations each month are inconsistent with one another; subsequently a trend pattern establishing an increase or decline in cases cannot be adduced.
- 3.3 The number of complaints averages at approximately 350 a month, however, the number of cases in October 2005 significantly increased to 496 cases; there is no apparent reason for this increase.
- 3.4 When making comparisons to statistics from previous years, it is interesting to note that the total number of complaints have increased over the years. This could suggest a greater awareness of the complaints procedure and standards issues in general or possibly that more people are articulating their complaints.
- 3.5 **Source of allegations:** The source of allegations submitted to the Standards Board for investigation varies. The Board has highlighted the common sources from which they receive complaints, indicating that council employees, fellow councillors and members of the public are the prevalent sources.
- 3.6 Complaints submitted by council employees are significantly low at only 6%. This figure has stabilised since 2003, but previous to this, council employees submitted twice as many complaints.
- 3.7 Noticeably, complaints from fellow councillors have decreased significantly over the years. The current percentage, cumulative since April 2005 is 29% compared to previous years where the percentage one year escalated to a high of 43%.
- 3.8 Evidently, the number of complaints received from aggrieved members of the public has significantly increased since 2003. Approximately three quarters of the complaints submitted to the Standards Board are from members of the public. A number of factors could have contributed to this rise, for example, an increase in public confidence in the complaints procedure or a greater awareness of the complaints process.
- 3.9 However, the Standards Board has conducted research into public perceptions of ethics and the overall findings suggest that awareness of the Board is low. The Standards Board commented; “many people responded positively to the idea of having a Standards Board, although showed surprise that they had not heard of the organisation”. This research asserts that public usage of the Board is low but the statistics do not support this, as the majority of complaints are submitted from the public.
- 3.10 **Type of Authority (Investigations):** The Standards Board receives complaints of misconduct from several different types of authority. Types of authority identified are, County Councils, District Councils, London and Metropolitan Borough Councils, Parish/Town Councils and Unitary Councils. Interestingly, half of the investigations conducted by the Standards Board involved members of Parish/Town Councils.

- 3.11 An article was published in the Standards Committee News: 04 (November 2005) focusing on “Tackling Parish Problems at the Root”. It was expressed that some investigations concerning Parish Councillors reveal long standing problems and more deeply ingrained issues within an authority, which investigations alone cannot address. For example, factionalism, dominant and destructive personalities and bullying.
- 3.12 **Nature of Investigations:** The areas of misconduct, reported nationally comprise of bringing the authority into disrepute, failure to disclose personal interests, failure to register financial interests, failure to treat others with respect, prejudicial interests and using a position to confer or secure an advantage or disadvantage.
- 3.13 Bringing the authority into disrepute and prejudicial interests are the areas of misconduct identified by the Standards Board to frequently receive the highest number of complaints. Each area accrued 23% of the complaints, collectively since April 2005, compared to the average of 14% attained in the remaining areas.
- 3.14 Comparing previous years statistics, the general trend pattern indicates that the two main areas of misconduct on a national scale are bringing the authority into disrepute and prejudicial interests. However, bringing the authority into disrepute is usually linked with other breaches of the Code of Conduct, rarely is it the sole breach.
- 3.15 Bringing the authority into disrepute can cover a wide range of unlawful activities, for example drink-driving, violent behaviour or taking advantage of a council mistake. The Committee on Standards in Public Life, in the report on their Tenth Inquiry, recommended that activities that fall within this category should be restricted “solely to the public life” of a Councillor. However, the Standards Board does not support this view, stating that, “[we] believe there are certain unlawful activities which, although not carried out in an official capacity, would still damage the public’s perception of that member’s fitness for office”.
- 3.16 Significantly, the most common cases referred to the Adjudication Panel, concerning a breach of the Code of Conduct, again, involve bringing the authority into disrepute.
- 3.17 Complaints regarding failure to register financial interests rarely require investigation. From April 2005, only 1% of the investigations concerned financial interests. In previous years, statistics show that financial interests have not always been this low; they were once a dominant area of complaint.
- 3.18 **Final Findings:** The Standards Board issues statistics for the outcome of their completed cases. Interestingly, in 60% percent of the cases investigated, it was held that no further action was required. Further, in approximately 15% of the cases it was found that no evidence of a breach of the Code of Conduct had occurred.

- 3.19 15% of cases investigated were referred for further investigation to the Adjudication Panel for England. The Adjudication Panel has a number of sanctions at their disposal up to and including disqualification of a member from holding office for up to five years. From analysing the statistics published by the Adjudication Panel, collective from January 2003 to present day, disqualification for one year was the most common type of sanction issued.
- 3.20 9% of cases were referred down to the Monitoring Officer for investigation.

4. PART B – LOCAL TRENDS

- 4.1 In 2005, five complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations (see table below). It is important to recognise that no adverse implications should be inferred from the fact merely that allegations have been made; the evidence, and outcomes, demonstrate that the cases referred to were relatively minor in nature and none were substantiated.
- 4.2 The first complaint to be submitted alleged that five Town Councillors and three Borough Councillors used inappropriate conduct while acting in their non-official capacity and further to this, issued defamatory statements. Misconduct in a non-official capacity can often lead to a breach of the Code of Conduct but in this case the allegation was not sufficiently serious and legal redress should have been sought for the defamatory statements.
- 4.3 The second allegation of misconduct concerned both disrespectful behaviour, including verbal abuse and embarrassment, and disclosure of personal information by a Borough Councillor. No breach of the Code of Conduct was found to occur and the Standards Board decided that in all circumstances the alleged conduct (even if it were found to occur) would not have involved any failure to comply with the Code of Conduct.
- 4.4 Again, disrespectful behaviour was the alleged issue for case number three. Although, this disrespect centred on failure to reply to letters, requests to meet and non-attendance at meetings. However, this did not amount to a breach of the Code because the Standards Board considered that the complaint related mainly to the policies of the authority and specific conduct of officers, both of which do not fall within the jurisdiction of the Board.
- 4.5 The alleged misconduct in the fourth case related to failure to treat others with respect, which involved insulting behaviour, jeering and encouraging profanities. The complaint concerned six Parish Members and one Borough Councillor. This misconduct had the potential to be a breach under para. 2(b) of the Code of Conduct (failure to treat others with respect). However, the Standards Board commented that the conduct was not of a sufficient nature to warrant a publicly funded investigation.

- 4.6 On the same issue, a different complainant submitted a complaint against a Borough Councillor. Again, no breach of the Code materialised but the Standards Board stated, “Members are entitled to express their opinions even though it may be of variance with opinions of others but in doing so there is an expectation that members will treat others with respect”.
- 4.7 The emerging trend pattern shown by these cases is that a breach of the Code of Conduct did not occur in 2005. Seemingly, every case submitted was either outside the Standards Board’s jurisdiction or the **alleged** misconduct was not sufficiently serious to amount to a breach. Hence, in order to prevent misconduct and reduce submissions to the Standards Board, implications for the Council may include training for members on the Code of Conduct and examples of situations whereby a breach of the Code is likely to occur.

Case	Type of Issue	Outcome	Implications	Review
1	Conduct and written context	No breach of the Code of Conduct	Training on Code of Conduct and awareness of cases investigated by Standards Board (see 4.7)	No
2	Disrespectful behaviour and disclosure of personal information	No breach		No
3	Disrespectful behaviour	No breach		Yes Unsuccessful
4	Failure to treat others with respect	No breach		Yes Unsuccessful
5	Failure to treat others with respect	No breach		No

5. RESOURCE IMPLICATIONS

- 5.1 No specific financial implications have been identified.

6. CONSULTATIONS

- 6.1 The Council’s Management Team has considered this Report on 30th January 2006.
- 6.2 The Standards Committee are consulted on this report and their views will be taken into consideration.

Contact Officer: Dennis A. Hall/Laura Starrs
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Wards: N/A

Key Decision Validation: N/A
Background Papers

The Standards Board for England – November 2005

Annual Review: Efficiency, 2004-05
Bulletin 26, November 2005
Standards Committee News, issue 4, November 2005
Town and Parish Standard, issue 5, November 2005
The Case Review, number 3

The Committee on Standards in Public Life – January 2005

Tenth Report of the Committee on Standards in Public Life: Getting the Balance Right:
Implementing Standards of Conduct in Public Life

Additional Information Sources

Standards Board Website - www.standardsboard.co.uk
Adjudication Panel for England – www.adjudicationpanel.co.uk
Committee on Standards in Public Life – www.public-standards.gov.uk

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"/>

Item 5

REPORT TO STANDARDS COMMITTEE

9TH FEBRUARY 2006

REPORT OF CHIEF EXECUTIVE OFFICER

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

1. SUMMARY

- 1.1 The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place.
- 1.2 The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives. This report is a further review for the purposes of Article 15 of the Constitution.
- 1.3 The recommendations in this report, based on advice from the Council's Monitoring Officer, and following meetings of the Constitutional Review Group, reflect those areas where it is considered appropriate to make some further changes, viz:
 - a) Changes resulting from the Cabinet decision taken on 19th January 2006 on Indemnities for Members and Officers: Impact of the Local Authorities (Indemnities for Members and Officers) Order 2004 Report of the Solicitor to the Council and Monitoring Officer.
 - b) Changes resulting from the decision of Cabinet on 2nd February 2006 considered at Standards Committee on 9th February 2006, forthcoming Comprehensive Performance Assessment, Key Lines of Enquiry, Corporate Governance Inspection implications for Standards and Ethics, the Standards Committee and Member Training – Taking the Ethics Agenda Forward: Report of the Solicitor to the Council and Monitoring Officer.
 - c) Request for changes from the Neighbourhood Services Department (Environmental Health) resulting from legislative changes.
 - d) Request for changes from the Neighbourhood Services Department (Planning Division) relating to proposed operational changes.

Specific details are shown in the attached schedule.

2. RECOMMENDATIONS

2.1 That the 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.

3. BACKGROUND

3.1 Work has already begun in reviewing the Constitution. A number of officers have formed a Constitutional Review Group, headed by the Monitoring Officer, and its purpose is to consider proposals for change with a view to reflecting the law and improving the efficiency of decision-taking within the authority.

3.2 Previous reviews are identified in the list of background papers accompanying this Report.

4. LEGAL IMPLICATIONS

4.1 It is intended that the changes shown in the Appendix shall have immediate effect.

4.2 The principal changes are referred to in paragraph 1.3 above.

5. CONSULTATIONS

5.1 Standards Committee are consulted on this report and their views taken into consideration. The Report will go to Council for approval on 24th February 2006.

5.2 All Departments of the Council have been consulted with regard to the amendments suggested in this report. Management Team considered the report on 30th January 2006.

5.3 All approved changes will be forwarded to the Standards Committee and any comments received will be reflected in future constitutional reviews.

5.4 Further reports will follow to explain the implications of the changes to members' roles arising from this report.

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Ward(s)

Key Decision Validation

Background Papers

Reports:

- Council - 16th May 2003
- Council - 26th June 2003
- Standards Committee - 4th November 2003
- Council - 26th November 2003
- Council - 21st May 2004
- Cabinet - 25th November 2004
- Council - 25th February 2005
- Standards Committee - 3rd November 2005
- Council - 25th November 2005

Regulations/Legislation:

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"/>

PROPOSED CHANGES FOR COUNCIL APPROVAL – 24TH FEBRUARY 2006*Amendments shown in bold print*

Page Reference and Proposed Amendment	Basis for Change
<u>Page 51</u> To add at Page 51 New Area of Responsibility for Cabinet Member for Resource Management: Lead Member on Standards and Ethics	Report to Cabinet of the Solicitor to the Council and Monitoring Officer 2nd February 2006, to Standards Committee 9th February 2006
<u>Page 60</u> To add new CE58: Delegation of decisions under the Re-use of Public Sector Information Regulations 2005 to the Customer Relations Manager in consultation with the Solicitor to the Council	Statutory Instrument 1515 of 2005: Report to Cabinet 2nd February 2006: Report of the Chief Executive Officer and Solicitor to the Council
<u>Page 64</u> R21 Insurances: Responsibility for making appropriate insurance arrangements for Members and Officers under the Local Authorities (Indemnities for Members and Officers) Order 2004	Statutory Regulations and Cabinet Report 2nd February 2006: Report of the Solicitor to the Council and Monitoring Officer
<u>Page 67</u> Neighbourhood Services (Planning): NS1 to add under Proper/Designated Officer "Principal Development Control Manager"	Request by Head of Planning Services
<u>Page 74</u> NS49: Administration of GIS System and associated ordnance survey matters: Proper Officer to be the Forward Planning Officer and Geographical Information Services Officer Subsequent NS numbers to be re-numbered	Request of Head of Planning Service Consequential upon above

<p><u>Page 80</u> Neighbourhood Services Department/Environmental Services to add after Food Act 1990 the words “as amended” and to be followed by “the European Communities Act 1972”</p>	<p>Request by Inspection and Licensing Services Manager</p>
<p><u>Page 82</u> NS72 to add “the grant of permits for commercial amusements with prizes on alcohol licensed premises”</p>	<p>Request by Inspection and Licensing Services Manager (The Gambling Provisions of the Licensing Act 2003 refer)</p>
<p><u>Page 84</u> To add after the words “with prizes’ permits” the following words “including prizes gaming machines (AWP machines) on alcohol licensed premises. The authorisation of low-stake gaming on alcohol licensed premises”</p>	<p>Request by Inspection and Licensing Services Manager (The Gambling Provisions of the Licensing Act 2003 refer)</p>

Item 6

REPORT TO STANDARDS COMMITTEE

9TH FEBRUARY 2006

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

COMPREHENSIVE PERFORMANCE ASSESSMENT: KEY LINES OF ENQUIRY CORPORATE GOVERNANCE INSPECTION: IMPLICATIONS FOR STANDARDS AND ETHICS, THE STANDARDS COMMITTEE AND MEMBER TRAINING – TAKING THE ETHICS AGENDA FORWARD

1. SUMMARY

- 1.1 This report considers the impact of the forthcoming Corporate Governance Inspection component of the Comprehensive Performance Assessment. In particular the opportunity has been taken to examine those aspects that focus upon how the best authorities take forward their Ethics Agenda.
- 1.2 This report serves to recognise the issues involved and the appropriate steps that ought to be taken to deal with them.
- 1.3 This report recognises that the Government have now published a series of major proposals which will change significantly the role of the Standards Board, Local Standards Committees and the duties of the Council's Monitoring Officer, following the publication of "Standards of Conduct in English Local Government : the Future", December 2005.

2. RECOMMENDATIONS

- 2.1 That Standards committee consider the report.
- 2.2 To note that full Council will be recommended to approve the report and also consequential changes to the Constitution as appropriate.

3. DETAIL

- 3.1 **Change Context:** in December 2005 the Government published its proposals on the changes to the arrangements for Standards of Members in Local Authorities in England and Wales, "The Standards of Conduct in English Government: The Future". The key changes envisaged are as follows:-
 - Initial assessment of all allegations of misconduct will be undertaken by Standards Committees and no longer by the Standards Board.
 - Local Monitoring Officers shall investigate most cases and Standards Committees shall determine most cases.
 - The Standards Board for England will only investigate the most serious cases and the Board's role will be limited and redefined to supporting, monitoring and overseeing Authorities' performance in dealing with allegations.

- Intervention powers will be given to the Standards Board to ensure that Standards Committees are operating effectively.
- New provisions will be put in place to permit Standards Committees to impose higher penalties in the more serious cases.
- The composition of Standards Committees will change: the requirement for an independent chair will be made compulsory and numbers of independent members will increase.
- Monitoring and reporting requirements will be put in place for Standards Committees so that the Standards Board can check on their progress.

All of these changes will require primary and secondary legislation which the Government intend to roll forward during the year.

- 3.2 **Achieving High Standards of Conduct: Assignment of Lead Responsibility to a Councillor:** Paragraph 4.3 of the Key Lines of Enquiry states that, as part of achieving high standards of conduct the Council should in effect assign lead responsibility to a Councillor for conduct and Standards issues as part of its arrangements. This could provide an opportunity to ensure recognition at the highest levels within the organisation of the key importance placed by the Council upon Ethics and Standards issues. In developing this aspect further the opportunity could usefully be taken to demonstrate the effectiveness of the Cabinet/Executive and overview and scrutiny relationship and other associated matters concerned with Corporate Governance.
- 3.3 The Leader of the Council whose responsibility concentrates upon resource management could be extended if he were to be assigned this role. Councillor Fleming has personally taken an interest in Standards issues within the Authority, has attended two nationally significant Standards Board for England Conferences and is keen to positively develop these aspects further. He has, since becoming leader, taken a lead role in moving the authority forward in its review of the Constitution.
- 3.4 In order to give effect to this arrangement it is suggested that: -
- * the Leader as Cabinet Chairman and Leader of the Council should be the member assigned with lead responsibility on Standards and Ethical Issues.
 - * the Leader's role be extended, and the Constitution amended accordingly, to put in place arrangements that require that he meet periodically with the Council's Statutory Officers that is to say the Chief Executive, Monitoring Officer and Section 151 Officer for the specific purpose of regularly considering and developing further the Standards strategy of the Council.
 - * On advice from the Statutory Officers the Leader prepare and submit an annual report on Standards and Ethical Strategy and Corporate Governance related matters to the Standards Committee.
- 3.5 **Extending the Standards Committee Remit:** The current remit of the Standards Committee corresponds with the minimum required by legislation under the Local Government Act 2000. However, many Councils have developed the remit further as was reported at the National Conference of the Standards Board for England in Birmingham in September last year. Both the Audit Commission and the Standards Board for England accept that there is significant evidence to support the proposition

that the best performing authorities are also those that demonstrate high standards of conduct across their functions. To this end they both support and encourage authorities where the remit of the Standards Committee has been extended.

3.6 It is, therefore, recommended that a widescale review take place within the Officer Constitutional Review Group with the object of focussing upon ways in which the remit of the Standards Committee can be appropriately extended and that they report further.

3.7 **Training:** The Audit Commission expects that training for Councillors on the Code of Conduct is made mandatory. Currently the Monitoring Officer advises the Standards Committee of forward plans for training of members at Borough, Parish and Town Council level as well as Officers and Clerks. The Standards Committee receives feedback reports on the training and also the performance of speakers and presenters is monitored. Information is retained about member/officer attendances at events.

3.8 The Monitoring Officer also maintains records of all training materials whether provided internally, externally or on a joint basis within the County Durham Area. The County Monitoring Officers Group which includes the Monitoring Officers of the County Council and all District Councils is chaired by him and meetings take place to discuss current topics and issues and areas for shared and joint working.

3.9 **Borough Councillors:** In view of the move towards mandatory requirements, it is recommended that, with effect from the start of the calendar year 2006 all members of the Council be notified that a mandatory requirement will be put in place hence forward that all members shall be required to attend at least one qualifying event per calendar year with effect from 2006; the details of attendances will be reported to the first meeting of the Standards Committee in the calendar year 2007. Qualifying events would include: -

- * Events conducted or organised by the Council's Monitoring Officer (at least three events will be conducted during the year at the instigation of the Monitoring Officer).
- * Conferences and events involving wholly or mainly standards and ethical Issues organised by local government associations and similar bodies, full details of which have previously been notified to the Council's Monitoring Officer.

Parish and Town Council Members: It is further proposed that Parish and Town Clerks be recommended to adopt a similar arrangement for their members and to maintain records accordingly. As the Standards Committee has a responsibility for those members also, Parish and Town Councils will be advised that information about their members' attendance will also be published as for Borough Council members.

3.10 **Monitoring Trends in Standards Board Complaints Nationally and Locally:** The inherent message of the Key Lines of Enquiry is that the Council can usefully go further to demonstrate how it reacts to complaints about member conduct. Currently complaints are monitored by the Council's Monitoring Officer concerning Borough, Parish and Town Council members. He reports on a monthly basis to the Chief Executive regarding current cases and whether they are likely to have an impact upon the Council's Constitution or Governance arrangements; whether change may

be necessary. In some instances cases are discussed by the Statutory Officers at their regular meetings. However, in order to take the concept of transparency further forward in this area it is suggested that it would be appropriate in light of the current expectations of the Audit Commission that formal reports be made to the Standards Committee of statistical and other data regarding cases both at national and local level. This would enable the Council to gauge current trends and determine whether those trends have implications for this Council.

4. CONSULTATION

4.1 This report has been considered by Management Team on 16TH January 2006 and, in particular, by the Statutory Officers, the Chief Executive, the Solicitor to the Council and Monitoring Officer and the Director of Resources, in his role as Section 151 Officer.

4.2 It is intended that Standards Committee be appraised of the terms of the report.

Contact Officer: Dennis A. Hall
Telephone No: (01388) 816166, Ext 4268
Email Address: dahall@sedgefield.gov.uk

Background Papers

Key Lines of Enquiry for Corporate Governance issued by the Audit Commission
 Related Item Discussion Paper Constitution and View: Member Involvement
 Report of the Solicitor to the Council and Monitoring Officer to Standards Committee dated Thursday 7th July 2005
 Standards of Conduct in English Local Government – The Future published by the Office of the Deputy Prime Minister – December 2005

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"/>
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4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Item 7

REPORT TO STANDARDS COMMITTEE

9 FEBRUARY 2006

REPORT OF CHIEF EXECUTIVE OFFICER

All Portfolios

REVIEW OF CONFIDENTIAL REPORTING POLICY

1 SUMMARY

- 1.1 This report provides details of the findings of a review of the Council's Confidential Reporting Policy.

2. RECOMMENDATIONS

It is recommended that the Standards Committee:

- 2.1 Notes the findings of the review of the Confidential Reporting Policy outlined at paragraphs 3.10 to 3.12.

3. DETAIL

Background Information

- 3.1 It is a constitutional obligation upon the Standards Committee to annually review the Council's policy in respect of confidential reporting arrangements.
- 3.2 An important element in the maintenance of probity in Local Government is the ability for individuals to be able to raise concerns where they perceive malpractice. The Employers Organisation published a Model Code on Whistleblowing (Confidential Reporting Code) shortly after the enactment of the Public Interest Disclosure Act 1998. The Act seeks to protect staff from being penalized by employers for raising concerns about serious misconduct or malpractice that threatens the public interest.
- 3.3 The Council is committed to the highest possible standards of openness, probity and accountability. Section 7 of the staff Code of Conduct outlines the Council's commitment to encourage and protect staff who disclose information in relation to matters which they feel breach the high standards expected within the Council. The Confidential Reporting Policy at Appendix 1 was introduced in April 2001 in accordance with the Employers Organisation model code and builds on the commitment and intention to encourage and enable concerns to be raised within the Council rather than overlooking a problem or "blowing the whistle" outside.

Current Position

- 3.4 The Confidential Reporting Policy applies to all employees, contractors working for the Council on Council premises, suppliers and those providing services under a contract with the Council. The procedures are in addition to the Council's complaints procedure and other statutory reporting procedures applying to some departments.
- 3.5 There are other policies and procedures in place to enable employees to lodge a grievance relating to their employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside of the scope of other procedures. Examples of such concerns include:
- ❑ Conduct which is an offence or a breach of law
 - ❑ Disclosures relating to miscarriages of justice
 - ❑ Health and Safety risks
 - ❑ Damage to the environment
 - ❑ The unauthorised use of public funds
 - ❑ Possible fraud and corruption
 - ❑ Sexual or physical abuse, or
 - ❑ Other unethical conduct
- 3.6 In addition, serious concerns about any aspect of service provision or the conduct of officers or members of the Council can be reported under the Confidential Reporting Policy.

Confidential Reporting Procedure

- 3.7 In accordance with the procedure, minor issues are dealt with by an immediate manager or supervisor, and more serious issues are reported to the Chief Executive Officer, Director of Resources or Monitoring Officer.
- 3.8 The Chief Executive Officer has overall responsibility for the maintenance and operation of the policy.
- 3.9 In the event that an employee is dissatisfied with action taken they have a right to refer the matter elsewhere, for example: to an external auditor.

Review of Current Policy

- 3.10 The policy has only been invoked on one occasion to deal with a major issue since its introduction in April 2001. In this case the policy operated effectively and the stages within it were found to be appropriate. A number of minor confidential reporting issues have been dealt with at a supervisory/managerial level.
- 3.11 Minor amendments have been made to the policy since April 2001 to reflect changes in the Council's organisation structure and the constitutional requirement that the Standards Committee reviews the policy on an annual basis.
- 3.12 Following comparisons of the policy with neighbouring authorities and other partner organisations and with best practice guidance it is concluded that the policy remains appropriate and relevant and does not require amendment at this point in time.

4. RESOURCE IMPLICATIONS

None

5. CONSULTATION

The policies of neighbouring authorities and partner organisations have been consulted during the review.

6. OVERVIEW AND SCRUTINY IMPLICATIONS

Not Applicable

7. OTHER MATERIAL CONSIDERATIONS

7.1 Links to Corporate Objectives/Values

This report impacts on the following corporate values:

- Investing in our employees
- Being open, accessible, equitable, fair and responsive

7.2 Equality and Diversity

An Impact Needs Requirement Assessment of this policy has identified that the policy has no adverse impact in terms of gender, race, religion, disability, age, or sexual orientation.

7.3 Risk Management

No additional implications have been identified.

7.4 Legal and Constitutional

It is a constitutional obligation upon the Standards Committee to annually review the Council's policy in respect of confidential reporting arrangements.

7.5 Health and Safety

No additional implications have been identified.

No other material considerations associated with this report have been identified.

8. LIST OF APPENDICES

Appendix 1 - Sedgefield Borough Council - Confidential Reporting Policy

Contact Officer: Helen Darby
Telephone Number: (01388) 816166 Ext. 4282

Email address: hdarby@sedgefield.gov.uk

Ward(s) Contents are not ward specific.

Key Decision Validation Will not involve expenditure which exceeds current budget.
Will not directly impact on more than two wards in the Borough.

Background Papers

Employers Organisation – Model Code on Whistleblowing (Confidential Reporting Code)
Public Interest Disclosure Act 1998
Sedgefield Borough Council – Code of Conduct for Employees

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"/>

Sedgefield Borough Council Confidential Reporting Policy

1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Sedgefield Borough Council is committed to the highest possible standards of openness, probity and accountability. This commitment is outlined in the Council's Code of Conduct for Employees which has been endorsed by both elected members and trade unions.
- 1.3 Section 7 of the Code of Conduct outlines the Council's commitment to encourage and protect employees who disclose information in relation to matters which they feel breach the high standards expected within the authority. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 The policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. ***This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or "blowing the whistle" outside.***
- 1.4 The policy applies to all employees and those contractors working for the Council on council premises. It also covers suppliers and those providing services under a contract with the Council.
- 1.5 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments.
- 1.6 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

2.1 This policy aims to :

- *encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.*
- *provide avenues for you to raise those concerns and receive feedback on any action taken.*
- *ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.*
- *reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.*

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include :-

- *conduct which is an offence or a breach of law*
- *disclosures related to miscarriages of justice*
- *health and safety risks, including risks to the public as well as other employees*
- *damage to the environment*
- *the unauthorised use of public funds*
- *possible fraud and corruption*
- *sexual or physical abuse, or*
- *other unethical conduct*

2.3 Any serious concerns that you have about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Policy. This may be about something that :

- *makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or*
- *is against the Council's Standing Orders and policies; or*
- *falls below established standards of practice; or*
- *amounts to improper conduct.*

3. SAFEGUARDS

3.1 Harassment or Victimisation

- 3.2 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.3 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.4 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. ANONYMOUS ALLEGATIONS

- 5.1 This policy encourages you to put your name to your allegations whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3 In exercising this discretion the factors to be taken into account would include :
- the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may taken against you.

7. HOW TO RAISE A CONCERN

7.1 Minor issues will continue to be dealt with on a day to day basis by your immediate manager or supervisor. However, in relation to serious issues of the type likely to be reported under this policy, you should approach the Chief Executive, Director of Resources or Monitoring Officer. The Council believes that this high level reporting reflects the seriousness and sensitivity of the issues involved within the scope of the Confidential Reporting Policy.

7.2 Concerns may be raised verbally or in writing. If you wish to make a written report you are invited to use the following format:

- *the background and history of the concern (giving relevant dates)*
- *the reason why you are particularly concerned about the situation.*

7.3 The earlier you express the concern the easier it is to take action.

7.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

7.5 ***Advice/guidance on how to pursue matters of concern will be available from:***

- **The Chief Executive Officer, Mr. N. Vaulks**
- **Director of Resources, Mr. B. Allen**
- **Monitoring Officer, Mr. D Hall**

Any major issue will be dealt with by a minimum of two of the above mentioned officers.

7.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

7.7 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

7.8 **Should employees or others lack the confidence or trust to make their disclosure of information to an internal source the Audit Commission has set up a confidential hotline and the Council would suggest that this be your first contact rather than other external regulatory bodies. The number of the telephone hotline is 0171 630 1019.**

8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to your concerns. Do not forget that testing your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
- *be investigated by management, internal audit, or through the disciplinary process.*
 - *be referred to the police*
 - *be referred to the external auditor*
 - *form the subject of an independent inquiry;*
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the responsible person i.e. the Chief Executive, Director of Resources or Monitoring Officer will write to you:
- *acknowledging that the concern has been received*
 - *indicating how they propose to deal with the matter*
 - *giving an estimate of how long it will take to provide a final response*
 - *telling you whether any initial enquiries have been made, and*
 - *telling you whether further investigations will take place and if not, why not.*
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, will inform you of the outcome of any investigation.
- 8.10 Appendix A attached shows how the Council will manage any concerns raised.**

9. THE RESPONSIBLE OFFICER

- 9.1 The Chief Executive Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report to the Council.
- 9.2 In accordance with the constitution of the Council the Standards Committee will conduct an annual review of the policy.

10. HOW THE MATTER CAN BE TAKEN FURTHER

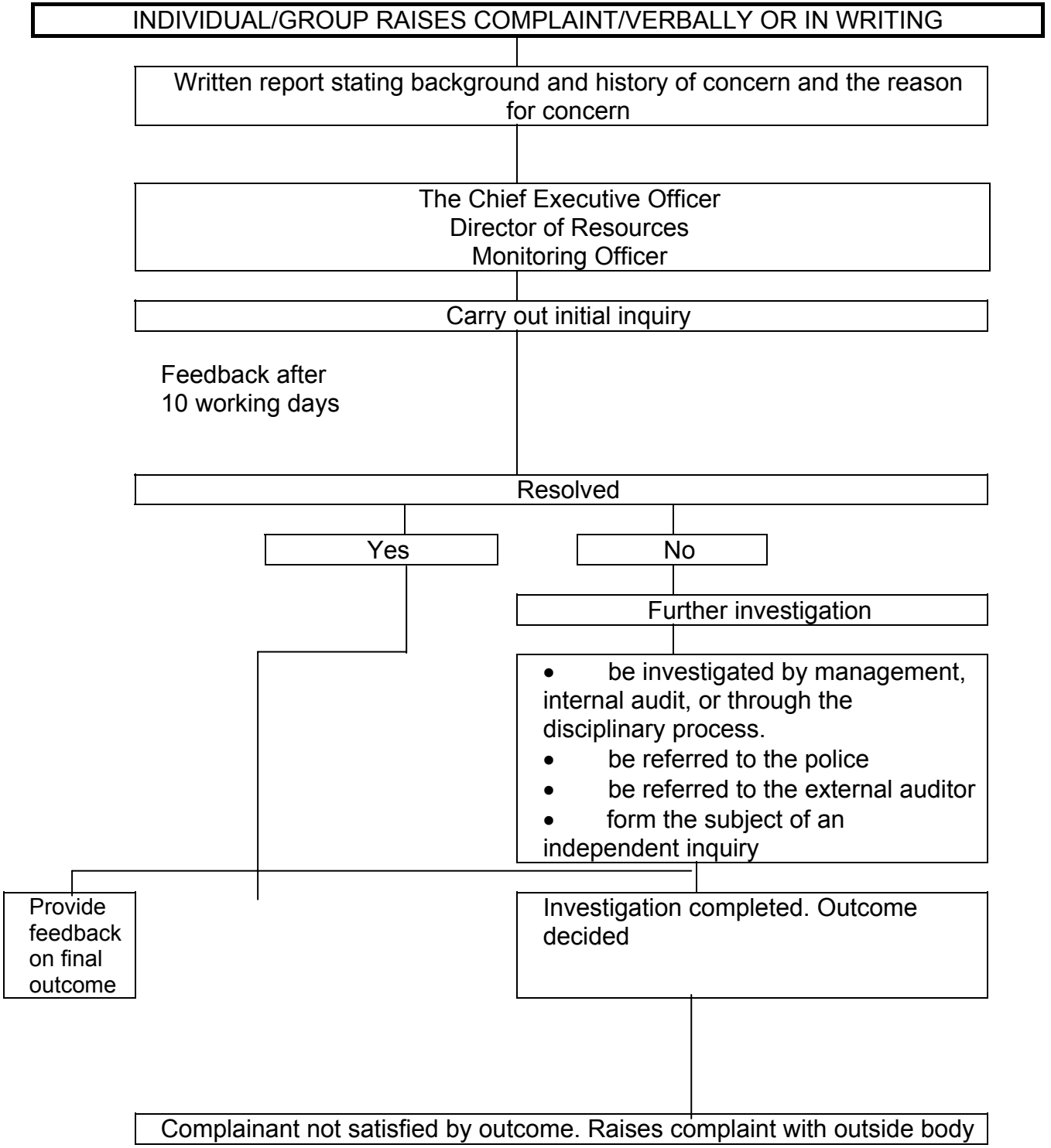
10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- *the external auditor*
- *your trade union*
- *your local Citizens Advice Bureau*
- *relevant professional bodies or regulatory organisations*
- *a relevant voluntary organisation*
- *the police.*
- *the Audit Commission*

10.2 **If you do take the matter outside the Council you should ensure that you do not disclose confidential information. The Council would suggest that the Audit Commission confidential hotline be your first contact rather than other external regulatory bodies. The number of the telephone hotline is 0171 630 1019.**

Policy Effective from	1 st April 2001					
Revision Dates	22/9/04					
Review Date	09/05	19/1/06				

APPENDIX A



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Item 8

REPORT TO STANDARDS COMMITTEE

9th FEBRUARY 2006

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

INDEMNITIES FOR MEMBERS AND OFFICERS : IMPACT OF THE LOCAL AUTHORITIES (INDEMNITIES FOR MEMBERS AND OFFICERS) ORDER 2004

1. SUMMARY

- 1.1 This report considers the impact of the Local Authorities (Indemnities for Members and Officers) Order 2004 which came into force on the 23rd November 2004. Many members and officers conduct functions and responsibilities in circumstances beyond their legal capacity as members and officers of the Sedgefield Borough Council, i.e. where appointments to outside bodies may have or might occur, or where they have responsibility in circumstances which might give rise to certain civil claims. In addition to assessing the impact of the regulations, this report advises on the steps which it is considered need to be taken in order to afford appropriate protections for those members and officers, and sets out the basis for the terms of that protection.
- 1.2 This report serves to recognise the issues involved and the appropriate steps that ought to be taken to deal with them.

2. RECOMMENDATIONS

- 2.1 That Standards Committee be appraised of the report as it relates to Local Hearings and Determinations under Part III of the Local Government Act 2000.
- 2.2 To note that Council will be advised to amend the Officer Scheme of Delegation in the Constitution to give the Director of Resources power to provide appropriate insurance cover.

3. DETAIL

- 3.1 The regulations provide for those circumstances in which a Local Authority may provide an indemnity for any of their members or officers. Article 4 makes it clear that an indemnity may be provided by means of the authority securing the provision of an insurance policy for the member or officer.

- 3.2 Article 5 sets out the cases in which indemnities (including those provided by insurance) may be provided. Provision is restricted to cases in which the member or employee is carrying on any function at the request of, with the approval of, or for the purposes of the authority. However, it does extend to cases in which, when exercising the function in question, the member or officer does so in a capacity other than that of a member or officer of the authority. This would permit an indemnity, for example, to cover a case where the member or officer acts as a director of a company at the request of the authority, and that he is acting in his capacity as a director.
- 3.3 Article 6 prevents the provision of an indemnity (or securing of insurance) in relation to criminal acts, any other intentional wrongdoing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.
- 3.4 Article 7 gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the authority itself or outside the powers of the member or officer who acts. It also covers cases in which a member or officer makes a statement that certain steps have been taken or requirements fulfilled but it later becomes clear that this is not the case. This power is limited to cases in which the person indemnified:-
- reasonably believed that the matter in question was not outside those powers, or
 - where a document has been issued containing an untrue statement as to the authority's powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or authorised.
- 3.5 Article 8 gives the authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate but requires that those terms include provision for repayment of sums expended by the authority or the insurer in cases in which a member has been found to be in breach of the Code of Conduct, applicable to him as a member of the authority, or a member or officer has been convicted of a criminal offence (if the indemnity or insurance policy would otherwise cover the proceedings leading to that finding or conviction). Any sums recoverable may be recovered as a civil debt.
- 3.6 It is considered that it would be appropriate for the Council to exercise the powers in these regulations to provide cover for both Members and Officers in the circumstances outlined in this report.

4. FINANCIAL IMPLICATIONS

- 4.1 The Council's existing Officials Indemnity Insurance Policy with Zurich Municipal generally provides cover for all employees and members when undertaking activities on behalf of the Council in connection with outside organisations but only where the Council is legally entitled:-
- to approve such activities
 - to indemnify the employees and members in respect of the activities

- 4.2 The existing cover provides an indemnity to the Council in respect of all sums which the Council may become legally liable to pay as damages and claimants' costs and expenses for financial loss arising as a result of a negligent act or accidental error or accidental omission committed by an employee whilst carrying out their duties.
- 4.3 The policy also covers all costs and expenses incurred in defending any claim, which may be the subject of an indemnity.
- 4.4 However, the Council has an excess amounting to £60,000 in respect of any claim under all of its liability policies, including this policy, as well as the employers and public liability policies. The Council is therefore effectively 'self-insuring' all but the most serious claims made against it.
- 4.5 With regard to investigations conducted by an Ethical Standards Officer, following a written allegation that a member had failed or may have failed to comply with the Code of Conduct, arrangements have been made for additional cover to meet any legal expenses in legally representing a member throughout the investigation.
- 4.6 There is a maximum limit for this cover amounting to £50,000 per annum and the premium is £29.50 per member, giving a total annual premium of £1,550 including Insurance Premium Tax.

5. CONSULTATION

- 5.1 This report has been considered by Management Team and, in particular, by the Statutory Officers, the Chief Executive, the Solicitor to the Council and Monitoring Officer and the Director of Resources, in his role as Section 151 Officer.
- 5.2 It is intended that Standards Committee be appraised of the terms of the report.

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Background Papers

Local Authorities (Indemnities for Members and Officers) Order 2004

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"/>

SCHEDULE

List of Members and Officers to be covered by Indemnity Provisions

1. All Council Members.
2. The Chief Executive, Directors, Section 151 and Monitoring Officer and their deputies or substitutes (where applicable).
3. Such other appointments as may from time to time be notified to the Head of Financial Services.