

# STANDARDS COMMITTEE

Thursday,  
6 April 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 9<sup>th</sup> February 2006. (Pages 1 - 6)

**3. AUDIT COMMISSION PRESENTATION**

To receive a presentation from C. Andrew, Audit Commission on the links between Standards of Conduct, High Levels of Performance and the Comprehensive Performance Assessment.

**4. ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION**

To consider the attached report of the Chief Executive Officer. (Pages 7 - 22)

**5. PROPOSED CHANGES TO THE CODE OF CONDUCT**

To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 23 - 26)

**6. PROPOSALS FOR AN INDEPENDENT MEMBER FORUM**

To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 27 - 30)

**7. STANDARDS TRAINING UPDATE**

To receive an oral report from the Solicitor to the Council and Monitoring Officer and, in particular, to note:

- Future training arrangements
- A review of the Standards Training Event for Members – 4<sup>th</sup> April 2006
- To note the date of the Annual Standards Board Conference – Birmingham – 16<sup>th</sup>/17<sup>th</sup> October 2006.

**8. DATE OF NEXT MEETING**

To be notified or otherwise agreed at Annual Council.

**9. 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.

To note that a special meeting may be required to be held to discuss proposals for changes to the Council's Committees, which would necessitate changes to the Constitution.

Council Offices  
SPENNYMOOR  
29<sup>th</sup> March 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 issued since previous meeting:

### ***MO Series***

MO72 Important Changes: Member Training  
MO73 Issue of the Parish Toolkit  
MO74 Town and Parish Standard Issue No. 6  
MO75 Attendance at Council Committees: Advice from the Deputy  
Monitoring Officer

### ***MO/SBC Series***

MO/SBC/10 Re-issue of Advice: Records Management: Retention  
Guidelines for Local Authorities

### ***MO/SBC/CONS Series***

MO/SBC/CONS11 Access to Information – Changes with effect from the 1<sup>st</sup>  
March 2006  
MO/SBC/CONS12 Constitutional Update following Council Meeting – 24<sup>th</sup>  
February 2006

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#### 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](mailto:sbillingham@sedgefield.gov.uk)

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# Item 2

## SEDGEFIELD BOROUGH COUNCIL

### STANDARDS COMMITTEE

Council Chamber,  
Council Offices,  
Spennymoor

Thursday,  
9 February 2006

Time: 1.00 p.m.

**Present:** L. Petterson (Chairman) and  
Councillors A. Gray and J. Wayman J.P.

**Parish/Town Council member**  
Councillor J. Marr (Spennymoor Town Council)

**Independent Member**  
Mr. I. Jameson

**Apologies:** Councillors Mrs. B. Graham, Mrs. L. Hovvels and G.M.R. Howe

**ST.13/05      DECLARATIONS OF INTEREST**  
Members had no interests to declare.

**ST.14/05      MINUTES**  
The Minutes of the meeting held on 1<sup>st</sup> November, 2005 were confirmed as a correct record and signed by the Chairman.

**ST.15/05      SUMMARY OF CHANGES TO STANDARDS ARRANGEMENTS:  
"STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT:  
THE FUTURE - DECEMBER 2005**  
Consideration was given to a report of the Solicitor to the Council and the Monitoring Officer which summarised the recently published discussion paper prepared by the Government to change the roles of the Standards Board, Local Standards Committees together with the duties of the Monitoring Officer. (For copy see file of Minutes).

The Committee was informed of the number of recommendations that had been issued by the Government that would affect:

- Local Code of Conduct
- Standards Committees
- Standards Board for England
- Local Authorities

Detailed discussion was given to the inclusion of Town and Parish Councils in receiving training and up-to-date information on the changes. It was explained that all information was distributed to Town and Parish Clerks as well as invitations to attend any training.

- RECOMMENDED:*
- 1. That the future changes be noted.*
  - 2. That Council be appraised of the report and 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.*

**ST.16/05**

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

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer, which detailed current trends in allegations of misconduct submitted to the Standards Board. (For copy see file of Minutes).

Members were informed that the report had been divided into Part A – National Trends and Part B – Local Trends.

It was reported that the Standards Board for England published a monthly statistical digest, which breaks down yearly and monthly statistics to identify national trends. In producing the trends it identifies the number of allegations, the sources of allegations, the type of Authority that submits complaints and the nature of the investigations.

With regard to Local trends the report identified that during 2005 five complaints had been submitted alleging misconduct by both Town Councillors and Borough Councillors. It was pointed out that this was a relatively low number of complaints.

It was explained that it was the first time the report had been prepared. It was also pointed out that the Government had not yet set pre definitions as what to follow. It was proposed that reports be submitted as the guidance was developed. Members of the Committee welcomed regular updates.

- RECOMMENDED:*
- 1. That the general trends in complaints of misconduct investigated at a national and local level be noted.*
  - 2. That Standards Committee notes the report and receives further reports annually.*

**ST.17/05**

**ARRANGEMENTS FOR THE REVIEW OF THE CONSTITUTION**

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

The report placed particular attention to the purpose of Article 15 of the Constitution and identified the proposed changes that would be submitted to Council at its meeting on 24<sup>th</sup> February 2006.

*AGREED: That the proposals contained therein be approved.*

**ST.18/05**

**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**

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the impact of the forthcoming governance inspection component of the Comprehensive Performance Assessment. (For copy see file of Minutes).

Members of the Committee were informed that the report had been agreed by Cabinet at its meeting on 2<sup>nd</sup> February 2006 and was therefore attached for Members information.

The report made specific reference to the proposals of the Government, which would change the role of the Standards Board, Local Standards Committees and the duties of the Council's Monitoring Officer in identifying the best way to take forward the Ethics Agenda.

Members were informed of the affects that would be made to the following:

- Change context
- Achieving higher standards of conduct: assignment of lead responsibility to a Councillor
- Extending the Standards Committee remit
- Training - Borough Councillors and Parish and Town Council Members
- Monitoring Trends and Standard Board Complaints nationally and locally.

Detailed discussion was held regarding the requirement for all members to attend at least one training event and the requirement to monitor and report attendance records.

It was pointed out that the above requirements would be recommended to be mandatory for Town and Parish Council's, however the Clerks would be advised to inform members of best practices on this issue.

*RECOMMENDED: 1. That the report be noted.*

*2. That Council be recommended to approve consequential changes to the Constitution as appropriate.*

**ST.19/05**

**REVIEW OF CONFIDENTIAL REPORTING POLICY**

Consideration was given to a report of the Chief Executive Officer detailing the findings of the review of the Council's Confidential Reporting Policy. (For copy see file of Minutes).

Members were informed of the Policy's current position, the procedure to follow in using the Policy together with the results of the review of the use of the current policy.

Questions were raised as to whether the Policy would be used or affect Town and Parish Councils. It was explained that the report was internal and that Town and Parish Councils should have their own Policy in place.

*AGREED: That the findings of the Review of the Confidential Reporting Policy outlined in paragraphs 3.10 and 3.12 be approved.*

**ST.20/05 INDEMNITIES FOR MEMBERS AND OFFICERS IMPACT OF THE LOCAL AUTHORITIES (INDEMNITIES FOR MEMBERS AND OFFICERS) ORDER 2004**

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the impact of the Local Authorities Order 2004, which came into force on 23<sup>rd</sup> November 2004. (For copy see file of Minutes).

Members were informed that the report had been agreed by Cabinet at its meeting on 19<sup>th</sup> January, 2006 and was attached for Member's information.

*RECOMMENDED: That the report be noted.*

**ST.21/05 STANDARDS TRAINING UPDATE**

Members were informed of a number of training events that had or would be taking place throughout the year.

The Deputy Monitoring Officer had arranged two training events regarding Judicial Review. The first had taken place on the 12<sup>th</sup> December and had been well attended the next was scheduled to be held on 13<sup>th</sup> February. Both had taken place within the Council Offices, Green lane, Spennymoor.

It had also been arranged for Peter Keith-Lucas to hold a mock hearing training day for 4<sup>th</sup> April 2006. To give members an insight as to how they should be conducted. Invitations had been distributed to local authorities, Monitoring Officers, Deputy Monitoring Officers, Town and Parish Councils and Members. It was pointed out that a number of invitations had been accepted.

Finally, it was reported that three events would be held in the Autumn regarding Members declarations of interest, however, more information would be distributed closer to the time.

**ST.22/05 "GOING LOCAL" INVESTIGATIONS AND HEARINGS**

Members were shown a DVD of the process of preparing for and conducting a hearing.



**ST.23/05**

**DATE OF NEXT MEETING**

6<sup>th</sup> April, 2006 at 1.00 p.m. in the Council Chamber, Council Officers,  
Spennymoor.

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**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@sedgefield.gov.uk](mailto:sbillingham@sedgefield.gov.uk)

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# Item 4

## REPORT TO STANDARDS COMMITTEE

6TH APRIL 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) On advice of the Council's Monitoring Officer, to amend Part 4 - Rules of Procedure. B. Access to Information Procedure Rules, to take account of the changes coming into effect from the 1st March 2006 under the Local Government (Access to Information) (Variation) Order 2006 and related regulations (**see Appendix 1**).
  - (b) Officer delegations amendment: from the Director of Neighbourhood Services/Inspection and Licensing Services Manager.: update to authorised officers NS 64

#### 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 these changes shall have immediate effect.
- 4.2 The principal changes are referred to in paragraph 1.3 above.

### **5. CONSULTATIONS**

- 5.1 Standards Committee will be/were consulted on this report on 6th April and their views taken into consideration.
- 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 20th March 2006.

**Contact Officer:** D.A. Hall, Solicitor and Monitoring Officer  
**Telephone No:** (01388) 816166, Ext. 4268  
**Email Address:** dahall@sedgefield.gov.uk

**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
- Standards Committee - 9th February 2006
- Council - 24th February 2006

*Regulations/Legislation:*

Local Government (Access to Information) (Variation) Order 2006

The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006

The Relevant Authorities (Standards Committee) (Amendment) Regulations 2006

**Examination by Statutory Officers**

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



**PART 4 – RULES OF PROCEDURE****B. Access to Information Procedure Rules**

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**1. SCOPE**

These Rules apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committees, Area Forums, the Standards Committee and Regulatory Committees.

**2. ADDITIONAL RIGHTS TO INFORMATION**

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

**3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these Rules.

**4. NOTICES OF MEETING**

Notice will be given of any meeting of the Council, Cabinet or Committees, Panels etc. by posting details of the meeting at the Council Offices, Spennymoor. The notice will be posted at least five clear days\* before the meeting is to be held.

\* 'Clear days' are defined as working days and do not include the day the notice is posted or the day of the meeting.

Meetings will also be advertised on the Council's Website [www.sedgefield.gov.uk](http://www.sedgefield.gov.uk) and in Inform, the Council's community newspaper.

**5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports (except those containing confidential or exempt information as defined in Rule 10) available for inspection at the Council Offices, Spennymoor at least five clear days\* before the meeting is to be held.

\* 'Clear days' are defined as working days and do not include the day the agenda becomes available or the day of the meeting.

If an item is added to the agenda later, the revised agenda, together with any additional reports (except those containing confidential or exempt information as defined in Rule 10), will be open to inspection for the time the item was added to the agenda.

**6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Chief Executive Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

These Rules represent a written summary of the public's rights to attend meetings and to inspect and copy documents and a copy will be kept and made available to the public at the Council Offices, Spennymoor.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.



## **10.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 (Right to a Fair Trial) establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

## **10.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## **10.4 Meaning of exempt information**

Subject to any subsequent amending provisions 'Exempt Information' means information falling within at least one of the following 7 categories (subject to any qualification); separate rules apply to meetings of Standards Committee:

### **SCHEDULE 12A**

#### **ACCESS TO INFORMATION: EXEMPT INFORMATION**

#### **PART 1**

#### **DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND**

- (1)** Information relating to any individual.
- (2)** Information which is likely to reveal the identity of an individual.
- (3)** Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- (4)** Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- (5)** Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6)** Information which reveals that the authority proposes—

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2

### QUALIFICATIONS: ENGLAND

- (8) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
- (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.
- (9) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (10) Information which—
- (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if, and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If Chief Executive Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication but subject to the requirements of the Freedom of Information Act 2000 or any other legislation that may require disclosure" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE CABINET**

The following Rules apply to the Cabinet. If the Cabinet meets to take a Key Decision then it must also comply with Rules 1 – 11 above, unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

A Key Decision is defined as:

- (i) any executive decision which is likely:-
  - to result in the local authority incurring expenditure, or making savings above £100,000
  - to have a significant impact on two or more wards.
- (ii) any decision made by the Cabinet in the course of developing proposals to the full Council to amend the policy framework.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

Forward plans will be prepared by the Leader to cover a period of four months and will be updated monthly.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet or officers, in the course of the discharge of a Cabinet function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;

- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan will be published at least 14 days before the start of the period covered. The Chief Executive Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices and on the Council's website [www.sedgefield.gov.uk](http://www.sedgefield.gov.uk);
- (e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Chief Executive Officer has informed the chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Chief Executive Officer complied with (a) and (b).

All decisions taken under this Rule will be taken in public, except Rule 10 applies.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the chair of the relevant Overview and Scrutiny Committee agrees that taking the decision cannot be reasonably deferred. If there is no chair of the relevant Overview and Scrutiny Committee, or if the chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the General Exception Procedure; or
- (c) the subject the Special Urgency Procedure;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive Officer, who shall require such a report on behalf of the Committee when so requested by at least 7 Members of a relevant Overview and Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

## **17.2 Cabinet's report to Council**

Upon request, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and, if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

## **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After every meeting of the Cabinet the Chief Executive Officer will produce a record of every decision taken at that meeting, normally within 2 working days of the meeting. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

In addition, where an Officer has taken a 'key decision' using authority delegated by Cabinet that officer will produce a record of the decision taken within 2 working days. The record will include a statement of the reasons for each decision and any alternative options considered and rejected by the Officer.

## **19. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **19.1 Rights to copies**

Subject to Rule 19.2 below, members of an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business transacted at a meeting of the Cabinet.

### **19.2 Limit on rights**

Members of an Overview and Scrutiny Committee will not be entitled to any document that is in draft form.

## **20. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **20.1 Material relating to previous business**

All Members of the Council will be entitled to inspect any report, including those containing confidential or exempt information, together with background papers used in its preparation, relating to any business previously transacted at a Cabinet meeting.

## 20.2 Material relating to Key Decisions

All Members of the Council will be entitled to inspect any report, including those containing confidential or exempt information, together with background papers used in its preparation, which relates to any Key Decision.

## 20.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.

## 20.4 Further Provisions

### (1) In Parts 1 and 2 of Schedule 12A as amended —

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

### (2) Any reference in Parts 1 and 2 and this part of Schedule 12A as amended, to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

- (i) any constituent principal council;
  - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
  - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
- (c) in the case of a sub-committee, to—
- (i) the committee, or any of the committees, of which it is a sub-committee; and
  - (ii) any principal council which falls within paragraph (b) above in relation to that committee.
- (3) These rights do not require a document to be available for inspection if it appears to disclose exempt information falling within Part 1 of Schedule 12A (see Rule 10.4 above) although if information falls within paragraph 3 (except to the extent the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or paragraph 6 of Schedule 12A, it shall be available for inspection.

**21. STANDARDS COMMITTEE : ACCESS TO DOCUMENTS :  
ADDITIONAL PROVISIONS**

Where a meeting of a standards committee, or a sub-committee of a standards committee, is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Act, the provisions of Parts 1 to 3 of Schedule 12A to the 1972 Act shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted —

- 7A.** Information which is subject to any obligation of confidentiality.
- 7B.** Information which relates in any way to matters concerning national security.
- 7C.** The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.



**PROPOSED CHANGES FOR COUNCIL APPROVAL – 21ST APRIL 2006**

<b>Page Reference and Proposed Amendment</b>	<b>Basis for Change</b>
<u>Page 80</u> NS64:– inclusion of the name Victoria Jackson-Hopps and a change of name from Meryl Gregg to Meryl Graham	Change in personnel and change of name

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# Item 5

## REPORT TO STANDARDS COMMITTEE

6TH APRIL 2006

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### PROPOSED CHANGES TO THE CODE OF CONDUCT

#### 1. SUMMARY

- 1.1 Further to the report heard before the Standards Committee on the 9<sup>th</sup> February 2006, this Report specifically focuses on the Code of Conduct itself and the future changes that are due be implemented.
- 1.2 The Standards Board for England were invited by the Government to review the Code of Conduct as part of the Government's consideration for the further development of the ethical framework for local government.
- 1.3 Accordingly, the Government have welcomed the recommendations of the Standards Board and agreed to the recommendations suggested.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee be appraised of the report and that the future changes be noted.

#### 3. DETAIL

- 3.1 It is believed by both the Standards Board and the Government that the changes will ensure that the Code becomes clearer and simpler and better focused on important and serious issues of misconduct, which need to be addressed to raise public confidence in local government.
- 3.2 The main proposed changes to the Code of Conduct are set out as follows:
- 3.3 **The General Principles are to form a preamble to the Code of Conduct.**

The general principles are to remain as present but be included as a preamble to the Code of Conduct, although, a failure to comply with the general principles will not itself amount to a breach of the Code. By introducing the general principles into the Code it is hoped that it will remind members of the positive values that they should be promoting and the purposes behind the Code.

- 3.4 Deletion of the requirement for Members to report other Members to the Standards Board.**  
This will reduce frivolous and vexatious complaints.
- 3.5 A new offence of bullying will be added to the Code.**  
The Code will make a much clearer statement centralised around the fact that such behaviour cannot be tolerated.
- 3.6 The Code will contain an exception for disclosure of confidential information where such disclosure is in the public interest.**  
This provision has been introduced because it was recommended that a greater balance needs to be struck between the need for an authority to protect confidential information and the Member's right to make information available in the public interest. The Code will clarify that there will be times when it is legitimate to release information and raise concerns, which have been deemed confidential.
- 3.7 The misuse of public resources offence is to be limited to serious misuse and the Code will define inappropriate political purposes.**  
This provision will continue to apply to conduct outside official duties, but only where the conduct will be regarded as unlawful.
- 3.8 The range of interests, which are required to be registered, are to be reduced.**  
The Government has agreed to the recommendation that there should be a reduction in the number of personal interests, which need to be declared and the definition of personal interest should be amended so Members need not declare an interest where it is merely something they share with a wide community. However, the Standards Board have yet to make detailed proposals as to how it can be achieved without weakening the intention of the Code.
- 3.9 The Code will redefine friend as close personal associate.**  
This phrase will hopefully effectively capture the breadth of relationships sought to be caught under paragraph 8.
- 3.10 Standards Committees will have wider discretion to grant dispensations.**  
It has been proposed that Standards Committees should have the power to permit individual Members with prejudicial interests to speak, in order to represent their constituents; but not to participate in the debate or to vote, thus increasing local discretion to grant dispensations.
- 3.11 Interests arising from membership of another public body, a charity or local pressure group, should not prevent members from discharging their representative role.**  
The rules for personal and prejudicial interests are to be made clearer, especially for Members who sit on more than one public body. Under the new Code, it is proposed that you would only need to declare a personal interest in a matter if it might reasonably be regarded. A new category of interests, called "public service" interests, is proposed to

enable Members who sit on more than one public body (dual-hatted Members) to take a greater part in discussions.

**3.12 The current £25 threshold for declaration of gifts and hospitality is to be retained and the register of gifts and hospitality is to be made public.**

The Local Government Act 2000 failed to provide for the register of gifts and hospitality to be made public, this is now to be rectified. It is also proposed that it should be an explicit requirement that Members declare the sources from which they have received gifts and hospitality as without such information the public register is of negligible use.

**3.13 Outside official duties, only unlawful conduct is to be regarded as likely to bring the Member's office or Authority into disrepute.**

This will continue to apply to conduct outside official duties, but only where the conduct is regarded as unlawful. It is difficult to comprehend how this proposal will translate in practice because this raises the question of where a Member's official duties start and end.

3.14 The Government will work closely with the Standards Board in agreeing the detail of the proposals for inclusion in a statutory instrument to implement amendments to the Code of Conduct.

**4. RESOURCE IMPLICATIONS**

4.1 No specific financial implications have been identified.

**5. LEGAL AND CONSTITUTIONAL IMPLICATIONS**

5.1 Members will be updated when the Code of Conduct is changed following secondary legislation being implemented.

**6. CONSULTATIONS**

6.1 The Council's Management Team has considered this Report on the 20<sup>th</sup> March 2006.

**Contact Officer:** Dennis A. Hall/Laura Starrs  
**Telephone Number:** 01388 816166, Ext. 4268  
**E-mail address:** dahall@sedgefield.gov.uk

**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

Report of 9<sup>th</sup> February 2006: Summary of Changes to Standards Arrangements:  
"Standards of Conduct in English Local Government: The Future" – December 2005  
The Local Government Act 2000

## 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 type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

# Item 6

## REPORT TO STANDARDS COMMITTEE

DATE: 6<sup>TH</sup> April 2006

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### ESTABLISHMENT OF AN INDEPENDENT MEMBER FORUM

#### 1. SUMMARY

- 1.1 This report outlines the Council's position in relation to the establishment of an Independent Member Forum in the Northern Area.
- 1.2 The Independent Members of Darlington Borough Council's Standards Committee have suggested the possibility of establishing an Independent Member Forum in the North East and have enquired whether there is any interest from our Independent Members to set up that kind of body.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee be appraised of the report.
- 2.2 That the level of interest from the Independent Members at the meeting be noted.
- 2.3 That a further report follows, when the details and recommendations for the forum have been finalised.

#### 3. DETAIL

- 3.1 At present, there is no such forum in the North East. The nearest forum geographically is in Yorkshire and Humberside. Enlarging that forum would not appear to be an attractive proposition and a better alternative would appear to be setting up a forum for the North East.
- 3.2 There are perceived to be some benefits for Independent Members in having their own support organisation, where they can exchange experiences of best practice and help to develop consistency of approach across Authorities.
- 3.3 References have been made to the concept and the way in which such a forum might be set up in the Standards Committee News, Issues 3 and 4.
- 3.4 The Standards Board have agreed that it will be useful if more forums are set up and on setting up a forum consideration is to be given to the following:

- 3.5 **Size:** Depending on enthusiasm, support of Councils and travel distances, 30 – 40 attendees at a meeting is advisable.
- 3.6 **Membership:** Many forums are restricted to Independent Members but some are opened up to Officers, such as Monitoring Officer for support and advice or as a full participant.
- 3.7 **Formality:** Some formality is useful, such as terms of reference but informality is more appropriate for some areas.
- 3.8 **Costs:** Travel costs should be covered if it is recognised by the Authority that the forum is a formal part of the role of an Independent Member.
- 3.9 **Support:** Forums need secretarial and financial support for basic duties like arranging meetings and distributing agendas and minutes
- 3.10 **Council Position:** The Chief Executive and Director of Resources have been consulted on the establishment of such a forum and support the idea being progressed. If necessary the Council is prepared to be actively involved in setting up and servicing such a forum, on a joint basis with participating authorities, providing whatever is necessary

#### 4. **RESOURCE IMPLICATIONS**

- 4.1 No financial implications have been specifically identified at this early stage. Nevertheless it is anticipated that there will be certain implications for the Council in establishing an Independent Member Forum. Accordingly, further reports will follow in due course.

#### 5. **CONSULTATIONS**

- 5.1 The Statutory Officers have considered this report.
- 5.2 Independent members of the Standards Committee have been 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**

Standards Committee News: Issue 04: November 2005  
Standards Committee News: Issue 03: November 2004  
Correspondence from the Borough Solicitor, Darlington Borough Council

### **Examination by Statutory Officers**

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

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