

# STANDARDS COMMITTEE

Thursday, 8 February 2007

1.00 p.m.

Council Chamber, Council  
Offices, Spennymoor

# AGENDA and REPORTS

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যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান অথবা যদি আপনার একজন ইন্টারপ্রেটারের প্রয়োজন হয়, তাহলে দয়া করে আমাদের সাথে যোগাযোগ করুন।

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यह दस्तावेज़ यदि आपको किसी अन्य भाषा या अन्य रूप में चाहिये, या आपको आनुवाद-सेवाओं की आवश्यकता हो तो हमसे संपर्क करें

ਜੇ ਇਹ ਦਸਤਾਵੇਜ਼ ਤੁਹਾਨੂੰ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਜਾਂ ਕਿਸੇ ਹੋਰ ਰੂਪ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਜਾਂ ਜੇ ਤੁਹਾਨੂੰ ਗੱਲਬਾਤ ਸਮਝਾਉਣ ਲਈ ਕਿਸੇ ਇੰਟਰਪ੍ਰੈਟਰ ਦੀ ਲੋੜ ਹੈ, ਤਾਂ ਤੁਸੀਂ ਸਾਨੂੰ ਦੱਸੋ।

یہ دستاویز اگر آپ کو کسی دیگر زبان یا دیگر شکل میں درکار ہو، یا اگر آپ کو ترجمان کی خدمات چاہئیں تو براۓ مہربانی ہم سے رابطہ کیجئے۔

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**Democratic Services**



**01388 816166**

## AGENDA

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**  
To notify the Chairman of any items that appear later in the agenda in which you may have an interest.
3. **MINUTES**  
To confirm as a correct record the Minutes of the meeting held on 2<sup>nd</sup> November 2006. (Pages 1 - 4)
4. **REVIEW OF CONFIDENTIAL REPORTING POLICY**  
To consider the attached report of the Chief Executive. (Pages 5 - 16)
5. **STANDARDS BOARD FOR ENGLAND: LEADER'S ETHICAL PLAN 2007-08**  
To consider the attached report of the Leader of the Council. (Pages 17 - 26)
6. **MEMBER TRAINING AND DEVELOPMENT: STANDARDS ATTENDANCE REVIEW 2006**  
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 27 - 30)
7. **STRONG AND PROSPEROUS COMMUNITIES: THE LOCAL GOVERNMENT WHITE PAPER - IMPLICATIONS FOR STANDARDS AND ETHICS**  
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 31 - 36)
8. **STANDARDS BOARD FOR ENGLAND CONFERENCE: LOCAL INVESTIGATIONS AND APPEALS FROM LOCAL DECISIONS**  
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 37 - 40)
9. **AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL**  
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 41 - 48)
10. **ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION**  
To consider the attached report of the Chief Executive. (Pages 49 - 58)
11. **STANDARDS TRAINING EVENTS: 28TH SEPTEMBER, 9TH OCTOBER AND 23RD OCTOBER 2006: EVALUATION QUESTIONNAIRE FEEDBACK**  
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 59 - 66)
12. **REVISED MODEL CODE OF CONDUCT FOR MEMBERS**

To consider the attached report of the Solicitor to the Council and Monitoring Officer (Pages 67 - 72)

**13. DATE OF NEXT MEETING**

5<sup>th</sup> April 2007 at 1.00 p.m. in the Council Chamber, Council Offices, Spennymoor.

**14. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

Members are respectfully requested to give the Chief Executive 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.

B. Allen  
Chief Executive

Council Offices  
SPENNYMOOR  
31<sup>st</sup> January 2007

L. Petterson (Chairman)

Councillors Mrs. B. Graham, A. Gray, Mrs. L. Hovvells, Mrs. C. Sproat and J. Wayman J.P

Councillor J. Marr (Spennymoor Town Council)

Mr. I. Jamieson (Independent Member)

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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, Tel 01388 816166 Ext 4240, [sbillingham@sedgefield.gov.uk](mailto:sbillingham@sedgefield.gov.uk)

# Item 3

## SEDGEFIELD BOROUGH COUNCIL

### STANDARDS COMMITTEE

Council Chamber,  
Council Offices,  
Spennymoor

Thursday,  
2 November 2006

Time: 1.00 p.m.

**Present:** Councillor J. Wayman (Chairman pro temp) and  
Councillors Mrs. B. Graham, A. Gray, Mrs. L. Hovvels, Mrs. C. Sproat

**Spennymoor Town Council Member**  
Councillor J. Marr

**Independent Member**  
Mr. I Jamieson

**Apologies:** Mr. L. Petterson

**ST.9/06            DECLARATIONS OF INTEREST**  
Members had no interests to declare.

**ST.10/06        MINUTES**  
The Minutes of the meeting held on 6<sup>th</sup> July, 2006 were confirmed as a correct record and signed by the Chairman.

**ST.11/06        ARRANGEMENTS OF REVIEW OF THE CONSTITUTION**  
Consideration was given to a report of the Chief Executive which detailed the need to continually review the Constitution to ensure that it reflected existing law and its operation continued to provide an efficient and effective framework and the delivery of the Council's aims and objectives. (For copy see file of Minutes).

The report informed Members of the proposed changes of the Constitution regarding: -

- Modifications to the officer delegations at Part 3c Officer Delegations made at the Request of Relevant Officers.

It was also pointed out that further inclusions and amendments would be proposed within a separate report to Council on 24<sup>th</sup> November to empower Licensing 2 Committee to exercise the powers of Licensing Authority in accordance with the Gambling Act 2005 including delegation of some of those powers to officers.

Concerns were raised regarding the current staffing levels within the Licensing Section and whether more staff would be needed to deal with the extra responsibilities.

- RECOMMENDED :*
- 1. That the Constitution be amended accordingly.*
  - 2. That the amended version be published on the Council's website.*
  - 3. That the proposal to introduce further amendments relating to the authority's functions under the Gambling Act, 2000 be noted.*

**ST.12/06 SURVEY OF PUBLIC ATTITUDES TOWARDS CONDUCT IN PUBLIC LIFE 2006**

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the findings of a national quantitative study into Public Attitudes towards Conduct in Public Life. (For copy see file of Minutes).

Members were informed that the survey had been commissioned by the Committee on Standards in Public Life to assess public attitudes, expectations and perceptions towards the behaviour of those in public life.

The survey aimed to explore people's overall perceptions of standards in public life and trust in public office-holders. It identified people's expectations and perceptions of standards of National Politicians, senior public officials, MPs and on voting in Parliament. It also included views on public sector recruitment practice, media scrutiny and the private lives of public officer-holders and public office-holders accountability.

*AGREED :* *That the report be noted and further similar reports be made annually.*

**ST.13/06 AUTUMN TRAINING PROGRAMME UPDATE: REVIEW OF NEW ETHICAL FRAMEWORK**

Members of the Committee were updated on the number of training events that had taken place.

The Solicitor to the Council and Monitoring Officer explained that training events on Standards issues had been held on :-

- 28<sup>th</sup> September at the Council Chamber, Council Offices, Spennymoor
- 9<sup>th</sup> October at Great Aycliffe Town Council
- 23<sup>rd</sup> October at Sedgefield Town Council

The training included changes to the procedure and the new Code of Conduct together with the viewing of a DVD "Going Local" highlighting the process of preparing for and conducting a hearing at a local level.

It was explained that all Borough Council Members included co-opted Members, Town and Parish Councillors and their clerks and Members of Standards Committee were all invited to attend.

Members of the Committee pointed out how successful the training events had been.

The Committee was also invited to attend a future training event presented by Peter Keith Lucas on 27<sup>th</sup> June, 2007. Further details would be issued once confirmed.

**ST.14/06**

**FIFTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES:  
STANDARDS BOARD FOR ENGLAND CONFERENCE: 16TH-17TH  
OCTOBER 2006 - KEY MESSAGES GOING FORWARD**

The Solicitor to the Council and Monitoring Officer updated the Committee of the recently held Fifth Annual Assembly of Standards Committees.

Members were informed that the training identified a number of changes to the Code of Conduct, including the following: -

- Personal interests
- Public service interest
- Prejudicial interests
- Election on a single issue
- Lobby and campaign groups
- Disclosure of confidential information
- Bullying
- Disrepute

The event identified the increase of investigations locally and highlighted how to conduct an effective investigation at a local level. It also included the changes to the Standards Board for England and the timetable for when decisions would be carried forward.

It was explained that further detailed reports would be issued in the future concentrating on: -

- Revised Code of Conduct and the Future Ethical Environment
- Case Review – Local Investigations, Appeals from Local Decisions, Directions, Bullying, Relationships between Council Leaders and Chief Executives, Officers
- Complaint Handling, work of the Standards Board
- Investigations – conducting and holding an effective hearing

Discussion was held regarding who made the initial decision of conducting a hearing at local level. The Solicitor to the Council and Monitoring Officer explained that the matter would initially be submitted to the Standards Board who would decide how the investigation would continue. If there was to be a hearing by the local authority then the Solicitor to the Council and Monitoring Officer would then advise Members of the procedure to be followed.

**ST.15/06**

**REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY: AUDIT  
COMMISSION INSPECTION: 25TH JULY 2006**

The Solicitor to the Council and Monitoring Officer informed Members that the Audit Commission had recently audited the Register of Interests and Gifts and Hospitality.

It was explained that they found the Register and the processes followed to be in order, with the management and availability of information all up to standard.

The Solicitor to the Council and Monitoring Officer explained that Members were sent six monthly reminders in order to keep all information up-to-date. It was, however, pointed out that three monthly reminders would be beneficial. The Solicitor to the Council and Monitoring Officer agreed to review the process.

**ST.16/06**

**DATE OF NEXT MEETING**

8<sup>th</sup> February, 2007 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, Tel 01388 816166 Ext 4240, [sbillingham@sedgefield.gov.uk](mailto:sbillingham@sedgefield.gov.uk)



# Item 4

## REPORT TO STANDARDS COMMITTEE

8<sup>th</sup> FEBRUARY 2007

## 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.
- 2.2 Note that since the last review of the Confidential Reporting Policy on 9 February 2006 there have been no cases raised under this policy.

#### 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: Paul Brennan**  
**Telephone Number: (01388) 816166 Ext. 4282**

Email address: [pbrennan@sedgefield.gov.uk](mailto:pbrennan@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 Brian Allen**
- **Director of Resources, Mr Alan Smith**
- **Monitoring Officer, Mr. Dennis 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

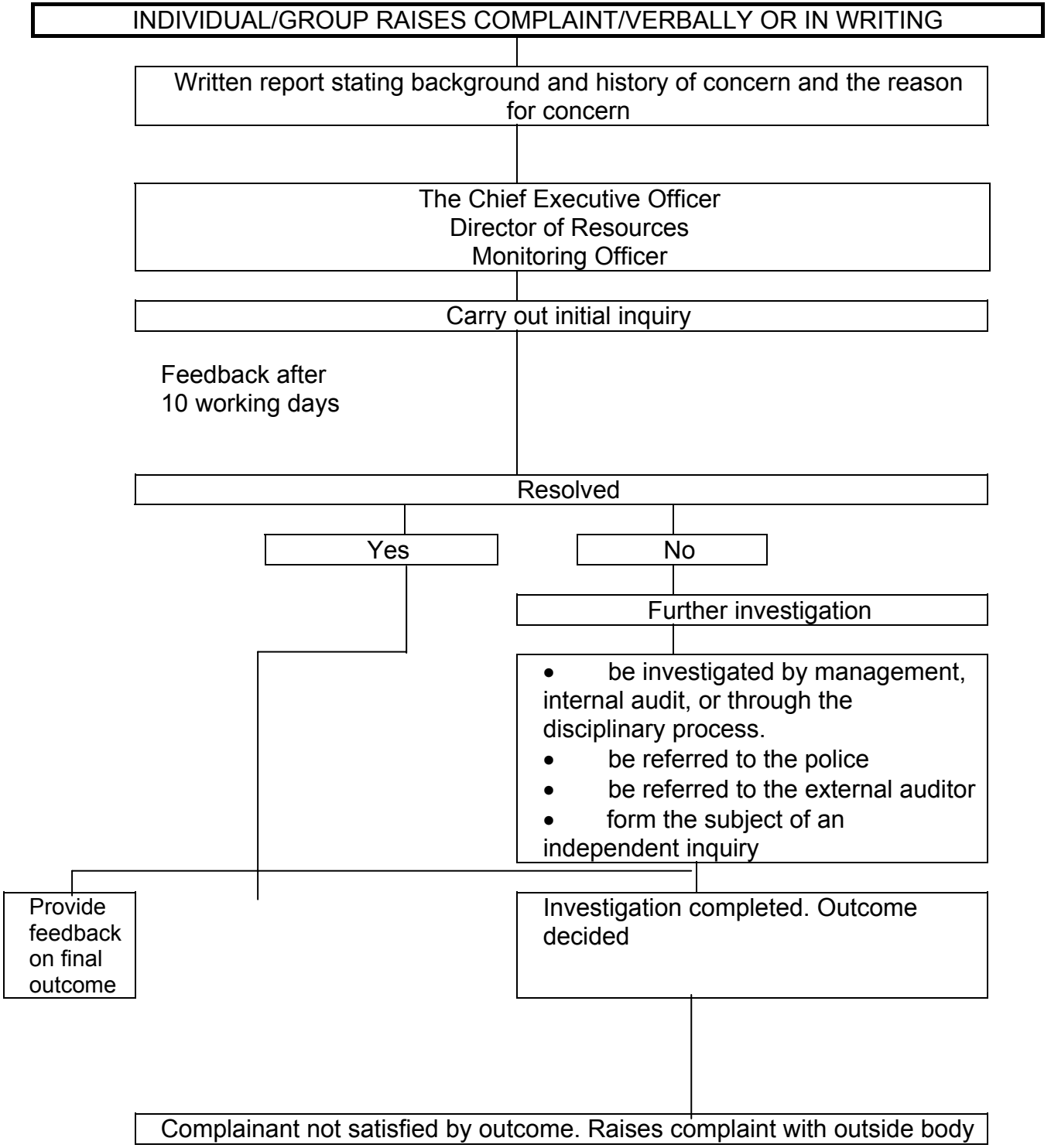
10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- *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.**

<b>Policy Effective from</b>	1 <sup>st</sup> April 2001					
<b>Revision Dates</b>	22/9/04					
<b>Review Date</b>	09/05	19/1/06	12/1/07			

**APPENDIX A**



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# Item 5

## STANDARDS COMMITTEE

8<sup>th</sup> FEBRUARY 2007

## REPORT OF LEADER

### PORTFOLIO: STRATEGIC LEADERSHIP

### STANDARDS BOARD FOR ENGLAND: LEADER'S ETHICAL PLAN 2007-08

#### 1. SUMMARY

- 1.1 This report sets out the Leader's mission and objectives for the Council, in terms of policy approach to issues of member ethics, standards and conduct.
- 1.2 This report also takes the opportunity to provide information on Council performance on standards, under the direction of the Council's Monitoring Officer, during the year 2006/7; it includes the Leader's mission and objectives and outlines the measures the Council has taken, and intends to take, in taking forward this important aspect of the agenda of modern local government.
- 1.3 It is considered that the independent scrutiny of the behaviour of members of local authorities, contributes to public confidence in local democracy. The leadership of the Council believe that the best authorities must always have a primary focus upon achieving high standards in behaviour.
- 1.4 New regulations will shortly be introduced which will increase the powers of the Standards Committee to deal with a greater number of cases locally. It has also been announced that the Members' Code of Conduct is to be reviewed and changes implemented.
- 1.5 The leadership continues to be committed to supporting the local Standards Committee and its Monitoring Officer in handling appropriate cases at a local level, to achieve robust investigations and just outcomes. It is in this context that the plans contained in this report have been developed.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee note the report.
- 2.2 That the Council note and adopt the report and the mission statement and objectives set out in the report.

#### 3. DETAIL

- 3.1 The Ethical Plan comprised in this Report sets out the mission and objectives for the Council in the area of standards and member conduct.

3.2 The core functions of the Standards Committee are as follows:-

- (a) *promoting and maintaining high standards of conduct by Councillors and co-opted Members;*
- (b) *assisting Councillors and co-opted Members to observe the Members' Code of Conduct;*
- (c) *advising the Council on the adoption or revision of the Members' Code of Conduct;*
- (d) *monitoring the operation of the Members' Code of Conduct;*
- (e) *advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;*
- (f) *granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;*
- (g) *dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;*
- (h) *the exercise of (a) to (g) above in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils;*
- (i) *overview of the whistle blowing policy;*
- (j) *oversight of the constitution;*
- (k) *to deal with cases referred to the Standards Committee by the Standards Board and to conduct local determination hearings in accordance with the Model Hearing Procedure at Part 4I;*
- (l) *to take such other steps as may from time to time be taken in accordance with the powers of the Local Government Act 2000 and any subordinate legislation thereunder.*
- (m) *to deal with cases referred to the Standards Committee by the Council's Monitoring Officer and to conduct a hearing in accordance with the model hearing procedure in Part 4I, as amended, or substituted, where necessary, for that purpose.*

### **Challenges Ahead**

3.3 There are a number of challenges and issues facing the Council over the coming year:-

- The expected increase and handling of cases at a local level.
- The introduction of a new revised Code of Conduct due to be introduced before the May Elections.
- The need to ensure continuity in the provision of guidance and advice of a high quality to members of the Borough Council and Parish and Town Councils.
- To ensure appropriate organisational capacity, including increased flexibility and adequacy of resources, to produce guidance, good practice and advice and to support whatever work is determined as appropriate by the Standards Committee regarding training and how to best target advice and training effectively.
- As in other aspects of modern local government, as the October White Paper emphasised, there is always the challenge of ensuring that the Council exploits opportunities to work in partnership with others, as well as engaging with the public more directly and maintaining appropriate awareness of key issues on standards and ethics.
- How best to identify the correct support needed for the Borough Council's members and members of Parish and Town Councils.

### **Mission and Objectives**

- 3.4 The Leader has reviewed the work of the Standards Committee and had discussions with the Statutory Officers, the Chief Executive, Monitoring Officer and Section 151 Officer. In light of the advice provided and the recognition that there is a need to adopt clear policy objectives in this important field, the Leader has developed a mission and a set of objectives, which accurately reflect the leadership's aspirations for the future.

### **Ethical Mission Statement**

- 3.5 The Council via its Standards Committee aims to be the respected body responsible for promoting ethical behaviour and building confidence in local democracy.

- 3.6 In order to achieve this, the Leader will:-

- review, monitor and ensure that arrangements are in place for an efficient, fair and proportionate handling of complaints, enabling local issues to be dealt with at a local level wherever possible.
- ensure that resources are available so that authoritative guidance and support continue to be received by members.
- strive to ensure that public confidence is increased in the authority by working in partnership to promote high standards of conduct.
- that the ethical arrangements of the authority are fit for purpose and that the combined work of the Standards Committee and its Monitoring Officer constitute a fit for purpose organisational arrangement.

## Review of Performance 2006 to 2007

- 3.7 In 2006, eight complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations. 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 majority of cases referred to were relatively minor.
- 3.8 The majority of the allegations made which could have potentially resulted in a breach of the Code of Conduct involved either a failure to declare an interest or disrespectful behaviour. Hence, the emerging trend pattern shown by these cases is that a breach of the Code of Conduct did not occur in 2006. Seemingly in all but one case, the allegation was either outside the Standards Board's jurisdiction or the alleged misconduct was not sufficiently serious to amount to a breach.
- 3.9 The Standards Board has referred one of the allegations to an Ethical Standards Officer and is currently still under investigation.

3.10

<b>Case</b>	<b>Type of Issue</b>	<b>Outcome</b>	<b>Implications</b>	<b>Review</b>
1	Procedural matter	No breach	Training on Code of Conduct and awareness of cases investigated by the Standards Board	No
2	Failure to declare interests	No breach		No
3	Failure to declare interests	Referred to an Ethical Standards Officer for Investigation - ongoing		No
4	Failure to declare interests	No breach		No
5	Official/unofficial capacity	No breach		No
6	Defamatory statements	No breach		No



7	Disrespectful conduct	No breach	No
8	Disrespectful conduct	No breach	No

### **Guidance and Support**

- 3.11 The Monitoring Officer Advice Series is issued to all Borough Members and Town and Parish Councillors. It offers guidance to Members and keeps Members up to date with changes in the law and procedure.
- 3.12 Since 2002, 87 MO advice notes have been issued. The advice notes have covered a range of topics including the Code of Conduct, Registers of Interests, Standards Board Bulletins, dispensations and gifts and hospitality.
- 3.13 Other advice is regularly issued in advice notes "MO/SBC" which includes (since 2002) 41 separate guidance notes covering functional and procedural advice covering best practice within the Council's internal arrangements; a further series "MO/SBC/CONS" provides information and updates to officers on changes to the Council's Constitution, which is regularly updated on advice from the Constitutional Review Group headed by the Monitoring Officer. 16 separate updates have been issued since 2002. The Monitoring Officer is assisted by the Standards Committee Support Officer who regularly prepares reports on performance issues, best practice elsewhere and in supporting training initiatives. Another Legal Assistant compiles and maintains Member Registers and website data on the Council's website.

### **Actions and Measures**

- 3.14 On average the Standards Committee meets 4 times a year and during 2006 has considered a variety of reports, including annual reports from the Committee on Standards in Public Life and the Standards Board. Many of the reports advised and informed Members on issues such as the procedure for granting dispensations, current trends in allegations of misconduct at national and local level, changes to the Code of Conduct and a DVD presentation was of interest as it detailed the procedure for investigations and hearings.

### **Provision of authoritative guidance and support to relevant authorities, members and officers**

- 3.15 A range of training events have been organised throughout 2006. A one-day training event was held at Ferryhill Leisure Centre on the 4<sup>th</sup> April 2006. The issues on standards were presented by Mr Peter Keith Lucas of Bevan, Brittan Solicitors. The training was aimed at Members of Local Authorities Standards Committees, Monitoring Officers and their Deputies, Town and Parish Clerks and their Members.

- 3.16 The event covered problem areas of the Code of Conduct, complaints and investigations and the pre-hearing process and also provided the opportunity to take part in a local standards mock event.
- 3.17 Three training events reviewing the new ethical framework took place in the autumn, one at the Council Offices and two at selected Town Councils. The event provided members with an update on standards issues, included the showing of the latest Standards Board DVD on local investigations and provided an opportunity to discuss current issues and receive feedback.

### **Working in partnership to promote high standards**

- 3.18 There are two areas where the Council's approach is supplemented by joint working arrangements with other authorities:
- Parish and Town Councils within the Borough: the Council's Monitoring Officer provides an on-line advice and information service to Parish and Town Council Clerks and their members covering Standards Board updates, bulletins and guidance.
  - County Monitoring Officers Group: the Monitoring Officer is Chair of the County Group of Monitoring Officers comprising officers from the County Council and District Councils: the Group considers and organises joint initiatives for training and collaborative working and support amongst authorities.

### **New Initiatives Implemented**

- 3.19 This year saw a number of initiatives and steps taken that will improve the Council's support on ethical matters:-
- Standards Committee approval on Dispensation Procedure.
  - the Local Code on Gifts and Hospitality was re-published to all members.
  - mandatory training requirements were set down and attendance details will be published annually.
  - the opportunity has been taken to centralise the registers of both Borough and Parish Members in order to monitor consistency of approach to registration practices with the Borough.
  - audit of Members' Registers and Gifts and Hospitality.
- 3.20 Audit Commission staff undertook the second review since 2002 of the Members' Registers maintained by the Monitoring Officer and found the arrangements to be in order.

## **Standards Committee and the Constitution**

- 3.21 The Standards Committee regularly receives reports from the Chief Executive who, on advice from the Monitoring Officer, makes proposals for constitutional revisions to ensure effective decision-making at all levels within the Council's framework. The Monitoring Officer is supported by a team of officers comprising the Constitutional Review Group which he leads.

## **4. RESOURCE IMPLICATIONS**

- 4.1 The plan emphasises the need to retain sufficient organisational flexibility to manage the uncertainties and risks inherent in this work at a local level. The plan will be regularly monitored – annually – to ensure that resources remain directed to the highest priorities of case handling and support to the Standards Committee.

## **5. CONSULTATIONS**

- 5.1 This Report has been prepared by the Leader, in consultation with the statutory officers of the Council: the Chief Executive, the Monitoring Officer and Section 151 Officer. Management Team has also considered the terms of the Report.

## **6. OTHER MATERIAL CONSIDERATIONS**

- 6.1 Links to corporate values:

Strategic Leadership

Strong Communities

- 6.2 Legal Implications: the requirements of the Local Government Act 2000 (and related legislation) impose duties and obligations upon the Council, its Standards Committee and the Monitoring Officer. The approach taken in this Report supplements and supports the Council's compliance within the new ethical agenda.

## **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

None identified.

**Contact Officer:** Dennis A. Hall  
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**E-mail address:** dahall@sedgefield.gov.uk

**Wards:** N/A

**Key Decision Validation:** N/A

## Background Papers

### Reports:

- Standards Committee - 9th February 2006
  - Summary of Changes to Standards Arrangements: "Standards of Conduct in English Local Government: The Future" – December 2005*
  - An Analysis of the Current Trends in Allegations of Misconduct at National and Local Level – 2005*
  - Arrangements for the Review of the Constitution*
  - Comprehensive Performance Assessment : Key Lines of Enquiry Corporate Governance Inspection: Implications for Standards and Ethics, for Standards Committee and Member Training – Taking the Ethics Agenda Forward*
  - Indemnities for Members and Officers Impact of the Local Authorities (Indemnities for Members and Officers) Order 2004*
- Council - 24th February 2006
  - Arrangements for the Review of the Constitution*
  - Summary of Changes to Standards Arrangements – "Standards of Conduct in English Local Government: The Future – December 2005"*
- Standards Committee - 6th April 2006
  - Arrangements for the Review of the Constitution*
  - Proposed Changes to the Code of Conduct*
- Council - 21st April 2006
  - Arrangements for Review of the Constitution*
- Standards Committee – 5th May 2006
  - Review of the Constitution – Member Involvement – Proposed Changes to the "Call-In" Procedure*
- Council – 19th May 2006
  - Review of the Constitution:*
  - Establishment of an Audit Committee*
  - Member Involvement – Proposed Changes to the "Call-In" Procedure*
- Standards Committee – 6th July 2006
  - Committee on Standards in Public Life: Annual Report 2005*
  - Procedure for Granting Dispensations*
  - Standards Committee Forward Plan 2006/2007*
  - Arrangements for Review of the Constitution*
  - Standards Training Event : 4th April 2006 : Evaluation Questionnaire Feedback*
- Council – 28th July 2006
  - Arrangements for Review of the Constitution*
- Standards Committee – 2nd November 2006
  - Arrangements for Review of the Constitution*
  - Survey of Public Attitudes towards Conduct in Public Life 2006*
- Council – 24th November 2006
  - Arrangements for Review of the Constitution*

**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 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 type="checkbox"/>	<input type="checkbox"/>

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# Item 6

## REPORT TO STANDARDS COMMITTEE

8TH FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### MEMBER TRAINING AND DEVELOPMENT: STANDARDS: ATTENDANCE REVIEW 2006

#### 1. SUMMARY

- 1.1 This report is a review of Member attendance at standards training events during 2006.
- 1.2 In the view of moving towards mandatory requirements and best practice it has been recommended that with effect from the beginning of 2006 it shall be deemed a mandatory requirement for all Members to attend at least one qualifying training event per year. Attendance will be reported to the first Standards Committee of each year; henceforward details of Member attendance/non attendance will be publicly available.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee considers the Report and notes the mandatory requirements for all Members.

#### 3. DETAIL

- 3.1 The qualifying training events that satisfy the mandatory training requirement include the following:
  - Training events conducted or organised by the Council's Monitoring Officer.
  - Conferences, training and events involving wholly or mainly standards and ethical issues organised as part of the Council's member development programmes or by local government organisations and similar bodies, full details of which have previously been notified to the Council's Monitoring Officer. Examples would include the Standards Board for England, CIPFA, the LGA and NEREO.
- 3.2 Several standards training events have been conducted throughout 2006 providing Members with many opportunities to receive training on standards issues. The first training event was organised and held on 4<sup>th</sup> April at Ferryhill Leisure Centre and the facilitator was Peter Keith Lucas of Bevan, Brittan Solicitors. The event provided the opportunity

to take part in a local standards mock event to discuss problem areas of the Code, complaints and investigations.

- 3.3 Delegates attended the training event from a wide range of regional authorities. Six Borough Members attended.
- 3.4 Every year the Standards Board for England holds an Annual Assembly of Standards Committees in Birmingham. The 2006 Assembly focused on several different areas including the new ethical agenda, local ownership, the Code of Conduct, investigations and hearings. The Assembly addressed these themes and concentrated on identifying and then closing the gaps between resources, knowledge and experience needed for effective regulation of ethical standards at a local level. There were limited places available for this event, hence, only two Members attended from this authority, Councillor Andrew Gray and Councillor Andrew Smith.
- 3.5 The final training events were held in the autumn of 2006 and presented by the Council's Monitoring Officer on three occasions, one in the Council Chamber and the other two at Town Councils, Great Aycliffe Town Council and Sedgefield Town Council. Members had the option of which training session they preferred to attend.
- 3.6 39 Members attended one of the Autumn training events.
- 3.7 11 Councillors did not attend any of the organised standards training events throughout 2006.
- 3.8 ***Parish and Town Councils:*** It has been proposed that Parish and Town Clerks adopt similar training arrangements for their Members and maintain records of attendances at qualifying training events. It is suggested that attendance/non-attendance be reported annually at their Council Meetings.
- 3.9 Parish and Town Councils so far who have adopted similar arrangements are Shildon Town Council, Sedgefield Town Council and Great Aycliffe Town Council.

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

- 4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

- 5.1 The Council's Management Team has considered this Report on 22nd January 2007.

#### **6. OTHER MATERIAL CONSIDERATIONS**

- 6.1 All material considerations have been taken into account in the contents of this Report. In particular, risks may arise unless Members of Council are fully apprised on standards matters.



## 7. OVERVIEW AND SCRUTINY IMPLICATIONS

7.1 None apply.

## 8. LIST OF APPENDICES

8.1 None apply.

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

**Key Decision Validation:** N/A

### Background Papers

Attendance list from all organised training events.

### Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils 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 7

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### STRONG AND PROSPEROUS COMMUNITIES: THE LOCAL GOVERNMENT WHITE PAPER – IMPLICATIONS FOR STANDARDS AND ETHICS

#### 1. SUMMARY

- 1.1 This report focuses on the implications for standards and ethics introduced by the Local Government White Paper – “Strong and Prosperous Communities”.
- 1.2 The Secretary of State for Communities and Local Government, Ruth Kelly MP, launched the Local Government White Paper - ‘Strong and Prosperous Communities’ on Thursday 27th October 2006.
- 1.3 The White Paper gives details of the Government’s proposals to improve the way that Local Government operates with a particular focus on greater citizen engagement, giving people more say in the decisions that Council’s take with respect to local areas and also greater powers for local Councillors to respond to residents concerns.

#### 2. RECOMMENDATIONS

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

#### 3. DETAIL

- 3.1 The White Paper emphasises the importance of maintaining high standards of probity, stating “when behaviour and conduct are corrupt or improper, it erodes confidence in the democratic system”. The Paper acknowledges the importance of maintaining trust in Local Government, and emphasises the link between high standards of ethical conduct and strong and accountable leadership at a local level.
- 3.2 **Councillors as Democratic Champions:** Local Councillors are the bedrock of local democracy. They have a key role in ensuring local services are responsive to the needs of their constituents and enabling local people’s voices to be heard. The White Paper suggests the need to reaffirm the importance of a Councillor’s role as a democratic champion. As well as providing Councillors with new powers through the Community Call for Action, their influence will be strengthened by working with the Local Government Association, the Improvement and

Development Agency and the Leadership Centre for Local Government and through regional improvement partnerships to promote:

- A clearer defined role for local Councillors in championing the interests of their communities;
- Greater diversity of Councillors, making them more representative of their community;
- Capacity-building and support for Councillors to take on their enhanced role.

3.3 The Government in their Closer to People and Places Campaign identified the roles and aims for Councillors to ensure that all Councils provide practical support to enable all Councillors to act effectively in these roles.

3.4 Communities need committed and skilled local Councillors who can be the pivotal link between the Council and local people and organisations. Councillors will:

- Be the recognised champions for the area, identifying and helping to resolve local concerns;
- Act as community leaders who provide direction for their area, mediating between and helping to reconcile competing views and interests, encouraging and aiding people and communities to resolve local problems themselves;
- Keep in touch with their constituents through regular surgeries and meetings, phone, e-mail and personal contact; to know and understand their views and concerns; foster effective relationships with the public, private, voluntary and community organisations in their area; actively monitor the performance of local public services in their area;
- Hold poor performers to account and contribute to plans to improve local services and the quality of life; speak freely as advocates for their area and act fairly and judiciously on decisions affecting other parts of the Council's area.

3.6 ***Localise and Simplify the Conduct Regime:*** All democratic and public governance relies on high standards of probity. The UK has a strong reputation for high standards in public life and it is important for the future well being of Local Government that this is maintained.

3.7 The Graham Committee on Standards in Public Life reported in 2005 that the vast majority of Councillors observe high standards of conduct and that such standards would be more likely to be guaranteed if decision-making on conduct issues was devolved to the greatest extent possible to the local level.

- 3.8 Strong and accountable local leadership requires the highest standards of conduct. In December 2005, the Government consulted on proposals to promote these high standards in Local Government and to improve the conduct regime, including whether there was support for a more local system for investigating allegations of misconduct. Following this consultation, which showed broad support for the proposals, the Government will now legislate to deliver:
- A more locally based regime, with local standards committees making initial assessments of misconduct allegations and most investigations and decisions made at a local level;
  - A revised strategic regulatory role for the Standards Board to provide supervision, support and guidance for local authorities and ensure consistent standards.
- 3.9 Put in place will be a clearer, simpler and more proportionate Code of Conduct for local authority Members and a new Code for employees. Changes to the Members' Code will include amending the rules on personal and prejudicial interests to remove the current barriers to Councillors speaking up for their constituents or for the public bodies on which they have been appointed to serve. For example, in future, Members of a planning or licensing committee will have more opportunities to represent their constituents on planning or licensing issues that affect their wards. Members will be able to speak and vote on such issues unless their interests in the matter are greater than those of most other people in the ward.
- 3.10 *Parish Councils:* Parish Councils are an established and valued form of neighbourhood democracy and management. The Government propose to build on the existing parish structure to improve its capacity to deliver better services and represent the community's interests.
- 3.11 Parish Councils already have powers to provide a variety of local services important to their communities. These include keeping their area clean, providing attractive public spaces and dealing with anti-social behaviour. Local authorities can delegate additional functions and budgets to a Parish Council.
- 3.12 The Government intend to extend the power of well being to all Parish and Town Councils, which satisfy criteria based on the Quality Parish Scheme.
- 3.13 A Parish or Town Council can currently apply for 'Quality Parish Status' via a local accreditation panel. The scheme is currently under review, with findings expected in 2007; but generally a Quality Parish Council:
- Is representative of and actively engages all parts of its community, providing vision, identity and a sense of belonging;
  - Is effectively and properly managed;
  - Articulates the needs and wishes of its community;
  - Upholds high standards of conduct;

- Is committed to working in partnership with principal local authorities and other public service agencies and voluntary groups; and
- Delivers local services on behalf of principal local authorities where this represents the best deal for the local community.

3.14 At present Parishes are created by Government and the Electoral Commission based on the recommendations carried out by the local Council or in a response to a petition by local residents. The plan is to simplify and speed up this process by devolving the power to create Parishes to local Councils, allowing them to implement the recommendations of parish reviews and to respond to petitions from local communities. There will be a presumption in favour of setting up Parish Councils so that local authorities will be expected to grant communities' requests to set up new Parish Councils, except where there are good reasons not to, and that existing Parishes are not abolished against the wishes of local people.

3.15 Parish Councils are currently restricted to using the name "Parish", "Town" or "City Council" but it is intended that Parishes will be given a wider range of alternative names extending the list of permissible names to include "community", "village" or "neighbourhood".

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

4.1 No financial implications have been identified.

#### **5. CONSULTATIONS**

5.1 This report has been considered by Management Team.

#### **6. OTHER MATERIAL CONSIDERATIONS**

6.1 All material considerations have been taken into account in the contents of this Report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

#### **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

7.1 None apply.

#### **8. LIST OF APPENDICES**

8.1 None apply.

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**Wards:** N/A

**Key Decision Validation:** N/A

### **Background Papers**

The Local Government White Paper: Strong and Prosperous Communities 2006  
The Management Journal for Local Authority Business: November 2006  
Annual Report of the Committee on Standards in Public Life 2005

### **Examination by Statutory Officers**

	<b>Yes</b>	<b>Not Applicable</b>
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils 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 8

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### SBE CONFERENCE: LOCAL INVESTIGATIONS AND APPEALS FROM LOCAL DECISIONS

#### 1. SUMMARY

- 1.1 Local investigations have become an integral part of the system of promoting high ethical standards and are likely to become increasingly important as the majority of complaints are referred back to the local level. This report summarises the changing role of the Standards Board, local investigations and appeals from local decisions.

#### 2. RECOMMENDATIONS

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

#### 3. DETAIL

- 3.1 The devolution of responsibility for handling complaints to the local level has gone hand-in-hand with the changing role of the Standards Board, which now focuses less on conducting its own investigations and more on supporting and advising local authorities, as a strategic regulator. The decision to refer more cases for local investigation and determination is based on the principle that local people should take local decisions on local issues.
- 3.2 The Standards Board's Ethical Standards Officers have been referring allegations to Monitoring Officers to investigate since November 2004. 43% of all cases were referred back for local investigation between 4<sup>th</sup> November 2004 and 31<sup>st</sup> August 2006. 57% of cases were referred for local investigation between 1<sup>st</sup> April and 31<sup>st</sup> August 2006.
- 3.3 The majority of cases are referred for local investigation; however, there are exceptions when local authorities are unable to deal with cases, for a variety of reasons. The Standards Board has decided only to retain cases automatically where the complaint is so serious that, if proven, it would warrant the penalties only available to the Adjudication Panel.

- 3.4 The Standards Board has analysed a sample of local investigations and found that there has been a positive start to the local investigation of complaints, with most of the complaints being dealt with effectively.
- 3.5 However, there is some concern about the time it is taking to complete some investigations. As of 1<sup>st</sup> September 2006, 37% of ongoing local investigations were over six months old and 9% were over 12 months old. The Standards Board has now developed a process to monitor the progress of local investigations by contacting Monitoring Officers about the anticipated length of their investigations and will be proactive in pursuing those Monitoring Officers whose cases have not been completed within six months.
- 3.6 There are Government proposals for local authorities to assume responsibility for receiving and assessing allegations at the initial stage, and decide whether or not they should be investigated. This should increase the local ownership of the standards process still further, and allow local knowledge and sensitivities to be brought to bear on complaints from the onset.
- 3.7 **Appeals from Local Decisions:** The subject member has the right to seek permission to appeal against the Standards Committee's finding, to the President of the Adjudication Panel. Members are entitled to request permission to appeal by lodging the request within 21 days of receiving the Standards Committee's notification of finding.
- 3.8 The Adjudication panel will, when reaching a decision, consider whether the application contains any reasonable ground of appeal. If so, an appeals tribunal will be convened to determine the matter. The tribunal will consist of at least 3 members appointed by the President to the Adjudication Panel. At least one of the members of the panel will be a legal member and will chair the tribunal.
- 3.9 Appeals can cover 3 possible areas. Some appeals dispute the facts of the case, some question the finding on whether or not there has been a breach of the Code of Conduct, and others challenge the sanction imposed by the Standards Committee. An appeal may consider all three of these aspects (the facts, the finding and the sanction), the finding and the sanction, or just the sanction.

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

- 4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

- 5.1 The Council's Management Team has considered this report.

## 6. OTHER MATERIAL CONSIDERATIONS

- 6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of the Council are fully apprised on standards matters.

## 7. OVERVIEW AND SCRUTINY IMPLICATIONS

- 7.1 None apply.

## 8. LIST OF APPENDICES

- 8.1 None apply.

**Contact Officer:** Dennis A. Hall/Laura Starrs  
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**E-mail address:** dahall@sedgefield.gov.uk

**Wards:** N/A

**Key Decision Validation:** N/A

### Background Papers

SBE Publication: The Case Review, Number 4, 2006

### Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils 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 9

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL - 2006

#### 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 2006 through to October 2006, and therefore cover only part of the calendar year.

- 3.2 **Number of allegations:** Since April 2006 the Standards Board received 1999 complaints in total compared to 2709 calculated for the same period of the previous year. 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 300 a month, however, the number of cases in June 2006 significantly decreased to 212 cases; there is no apparent reason for this decrease.
- 3.4 When making comparisons to statistics from previous years, it is interesting to note that the general trend indicates that the total number of complaints each year has increased. Surprisingly, this trend has not continued as the number of complaints submitted to the Standards Board for 2006 has decreased.
- 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 and fellow councillors still remain the prevalent sources.
- 3.6 Over half of the allegations received by the Standards Board were from aggrieved members of the public, however, this figure of 62% has decreased by 2% from 2005. Reasons for this decrease cannot be suggested, as it is not by a substantial amount.
- 3.7 The allegations submitted by fellow Councillors have been recorded at 32%. This is an increase of 4% from 2005. However, this is not surprising because in previous years complaints by fellow Councillors have risen in one year to 43%.
- 3.8 **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, the majority of investigations conducted by the Standards Board still involve Members of Parish/Town Councils.
- 3.9 The Standards Board in their July edition of the "Town and Parish Standard" focus on moving forward with Town and Parish Councils and current initiatives are taking place specifically in relation to individual Parishes. For example, where the Standards Board has concerns about the number of allegations received about a particular Parish, they will assess whether there may be ways, other than simply investigation of individual Members, of solving the problems. If so, the Standards Board will contact the key local people to discuss the development of an action plan. The action plan may involve specific training programmes, mediation services or other activities. It has already helped to develop local solutions in a number of areas to address deep-seated problems.
- 3.10 **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.

- 3.11 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.
- 3.12 This trend has continued in 2006; 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. Collectively, 49% of allegations fell into one of these two categories.
- 3.13 The Standards Board recognises the view expressed by some that only misconduct which relates to official duties should be regarded as capable of bringing the authority into disrepute. However, in line with the majority of views received during a consultation exercise, the Standards Board believe that the Code of Conduct should continue to cover certain behaviour outside of official duties, but should be limited to unlawful conduct. The Standards Board therefore proposes that the provision relating to disrepute in the original Code is clarified, so that only unlawful activities such as criminal or cautionable offences committed outside of a Member's official duties are subject to the Code. Civil matters or merely objectionable conduct in private will not be covered.
- 3.14 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.
- 3.15 **Final Findings:** The Standards Board issues statistics for the outcome of their completed cases. Interestingly, in 31% of cases no breach of the Code was evident and in 61% of cases no further action was taken.
- 3.16 **Local Investigation Statistics:** These statistics are based on the financial year 2005–06. Ethical Standards Officers referred 352 cases for local investigation, which is equivalent to 44% of all cases referred for investigation. Of those cases, the Standards Board received 202 reports back from local authorities. The following analysis is based on those 202 reports.
- 3.17 Monitoring Officers' following local investigations recommended that 117 of the cases should result in a breach of the Code of Conduct. However, 145 Standards Committees have met, and only 76 of them concluded that a breach of the Code had occurred. These figures include 9 instances where the Standards Committee disagreed with the Monitoring officer. In six cases, the decision changed to no breach, and in 3 cases it changed to breach.
- 3.18 There are wide ranges of sanctions available to Standards Committees ranging from an apology, through to censuring. Out of the 145 Standards Committee determinations the sanctions imposed varied, the most common being censuring with training and/or an apology, training, or suspension

combined with training. Although in 24 of the cases no sanction was imposed.

- 3.19 The Adjudication Panel in their Annual Report published the statistics for appeals against Local Standards Committee determinations. 18 applications were received to appeal against the determinations of local hearings by comparison with 8 in the previous year; this is an increase from 11% to 32%.
- 3.20 Of the 18 applications received, 11 were allowed to proceed, the remainder being refused either as disclosing no reasonable ground for appeal or because there was no prospect of an appeal succeeding.

#### **4. PART B – LOCAL TRENDS**

- 4.1 In 2006, 10 complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations. 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 allegation submitted alleged that ten Town Councillors did not follow correct democratic procedure. The Standards Board concluded that the allegations did not disclose a potential breach of the Code because the Board only exists to monitor ethical conduct of individual Members, and does not have the jurisdiction to consider complaints relating to decisions of the authority as a whole, or the particular administrative procedures of authorities.
- 4.3 The second complainant alleged that a Borough Councillor failed to declare an interest. No breach of the Code of Conduct was found to occur and the Standards Board took the view that the information provided by the complainant was insufficient to make a decision as to whether it should be referred to an Ethical Standards Officer.
- 4.4 Again, the third case involved a Borough Councillor who allegedly failed to declare several interests. The Standards Board decided that there was sufficient evidence to refer this complaint to an Ethical Standards Officer. However, after investigation it was found that no breach of the Code had occurred and the Ethical Standards Officer was of the opinion that the matter did not require further action as the Member registered all memberships as soon as the matter was brought to attention.
- 4.5 The alleged misconduct in the fourth case related to failure to declare an interest by a Borough Member. The Standards Board decided not to investigate the complaint, as the information provided was insufficient to make a decision as to whether it should be referred.
- 4.6 The fifth complainant alleged that a Borough Councillor used their official capacity and Council resources to secure an advantage. However, no breach materialised as the Standards Board was of the opinion that the allegations fell outside their jurisdiction and would be better addressed by the appropriate bodies such as the police or the Council.



- 4.7 Allegation number 6 involved 3 Borough Councillors and 5 Town Councillors. The complainant alleged that certain Councillors had agreed to issue defamatory statements against another fellow Councillor. It was considered by the Board that the Councillors were not acting in their official capacity as elected Members. However, in some cases allegations concerning Members conduct in a private capacity can, in some cases, disclose a potential breach of the Code, although this was not considered to be the case in this instance. It was considered that legal redress would be the most appropriate course of action if the complainant wished to pursue the issue of defamation.
- 4.8 The alleged misconduct in the seventh case involved a Borough Councillor who allegedly engaged in disrespectful conduct. The decision of the Standards Board was not to investigate the complaint because from the information provided it was not clear whether the Councillor was acting in their official capacity as an elected Member when the alleged incident occurred. Notwithstanding this, in all circumstances, it was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the Authority's Code of Conduct. On the same issue, a different complainant submitted a similar complaint against the same Councillor but the findings of the Standards Board did not vary from the above.
- 4.9 The eighth allegation involved a Borough Councillor who allegedly acted in a disrespectful manner by embarrassing the complainant and revealed information of a personal nature about a third party. The Standards Board reviewed the background information to this case and it was not considered that the alleged disclosure of information amounted to a potential breach of the Code. However, it was acknowledged that such issues are emotive and may result in individuals making comments which others may consider disrespectful, although such conduct in this respect did not amount to a breach of the Code. 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.
- 4.10 The alleged misconduct in the ninth case involved a Borough Councillor who allegedly divulged confidential information. After taking account of the available information the Standards Board did not find that a breach of the Code had occurred.
- 4.11 The final case involves allegations of bullying and intimidation allegedly made by a Borough Councillor. The Standards Board decided that there was sufficient evidence to refer this complaint to an Ethical Standards Officer and is currently still under investigation.
- 4.12 The emerging trend pattern shown by these cases is that a breach of the Code of Conduct did not occur in 2006. 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 further training for members on the Code of Conduct and examples of situations whereby a breach of the Code is likely to occur.

## **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.

6.2 The Standards Committee are consulted on this report and their views will be taken into consideration.

## **7. OTHER MATERIAL CONSIDERATIONS**

7.1 All material considerations have been taken into account in the contents of this Report. In particular, risks may arise unless Members of the Council are fully appraised on standards matters.

## **8. OVERVIEW AND SCRUTINY IMPLICATIONS**

8.1 None apply.

## **9. LIST OF APPENDICES**

9.1 None apply.

**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**

#### ***The Standards Board for England***

Bulletin 30, November 2006

Town and Parish Standard, issue 8, November 2006

#### ***Additional Information Sources***

Standards Board Website - [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

Adjudication Panel for England – [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)

Committee on Standards in Public Life – [www.public-standards.gov.uk](http://www.public-standards.gov.uk)

## Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils 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 10

## REPORT TO STANDARDS COMMITTEE

8TH FEBRUARY 2007

## REPORT OF CHIEF EXECUTIVE

### 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 16 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:
  - *changes to Senior Management Structure: designation of Director of Neighbourhood Services as Deputy Chief Executive.*
  - changes requested by the Chief Executive relating to decisions to approve changes/revisions to staff establishment structures.
  - changes to Cabinet Functions/Scheme of Delegations regarding authorisation of attendance of members at courses, seminars, etc.
  - revisions to the remit of Licensing Committee 2 and the Scheme of Delegations to Officers arising from the implementation of the Gaming Act 2005.
  - revisions to the composition of Housing Review Panels to facilitate decision-taking.
  - changes to the Political Management Structure to assign responsibility for Business Transformation and Data Quality.
  - changes to the Scheme of Delegations to Officers arising from the new corporate policies on the Regulation of Investigatory Powers Act 2000.
  - modifications to the Officer Delegations at Part 3C : Officer Delegations, made at the request of relevant officers.

## **2. RECOMMENDATIONS**

- 2.1 That the Standards Committee notes the amendments set out in the Appendix and that Council will be asked to approve the same and direct 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 is ongoing 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.
- 3.3 The changes proposed to Article 13.02(a) will be the subject of a separate detailed Report to Cabinet (15th February 2007).
- 3.4 Some of the changes are subject to approval by Cabinet and Council of associated reports.

## **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 Management Team was consulted on this report on 29th January 2007 and their views taken into consideration. The Council will consider this Report on 23rd February 2007.
- 5.2 All Departments of the Council have been consulted with regard to the amendments suggested in this report.

**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
- Standards Committee - 6th April 2006
- Council - 21st April 2006
- Standards Committee – 5th May 2006
- Council – 19th May 2006
- Standards Committee – 6th July 2006
- Council – 28th July 2006
- Standards Committee – 2nd November 2006
- Council – 24th November 2006

## 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"/>

**PROPOSED CHANGES FOR COUNCIL APPROVAL – 23RD FEBRUARY 2007**

<b>Page Reference and Proposed Amendment</b>	<b>Basis for Change</b>
<p><i>Page 24 – Part 2 Articles of the Constitution Director of Neighbourhood Services To add:</i></p> <p><i>To act as Deputy Chief Executive in absence of Chief Executive (current postholder until further review).</i></p>	<p><i>Council Decision : 23rd February 2007</i></p>
<p>Page 25 – Part 2 Articles of the Constitution Article 13.02(a) Function of Head of Paid Service</p> <p>To change “spinal column point 28” to “PO5”. (Cabinet Report - 15th February 2007 refers)</p>	<p>Request and recommendation of Chief Executive having consulted with Cabinet.</p>
<p>Page 44 et seq – Part 3 Responsibility for Functions A. Council Functions</p> <p>Changes to remit to implement Gaming Act 2005.</p> <p>[See attached R1]</p>	<p>Request of Director of Neighbourhood Services/ Licensing</p>
<p>Page 47 – Part 3 Responsibility for Functions A. Council Functions</p> <p>Appeals/Review Panel</p> <p>Panel composition : to change “five” to “three” and delete reference to seven members being invited.</p>	<p>Request of Solicitor to the Council/Head of Democratic Services</p>
<p>Page 54 – Part 3 Responsibility for Functions B. Cabinet Functions</p> <p>Political Management : Strategic Leadership Portfolio : Service Areas.</p> <p>To add adjacent to Resource Management under Service Area the terms:</p> <p>Business Transformation Data Quality</p> <p>And delete “E-Government”</p>	<p>Request of Head of Financial Services and Head of Organisational Development</p>



Page Reference and Proposed Amendment	Basis for Change
<p>Page 56 – Part 3 Responsibility for Functions B. Cabinet Functions</p> <p>Paragraph 9 relating to conferences, courses and seminars to be deleted.</p>	<p>Request of Chief Executive</p>
<p>Page 62 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>CE51 – Regulation of Investigatory Powers Act 2000</p> <p>To substitute current CE51 as follows:</p> <p>[See attached R2]</p>	<p>Request of Solicitor to the Council to take account of revisions to Corporate Policy [see report of Solicitor to the Council and Monitoring Officer to Council 23rd February 2006]</p>
<p>Page 63 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>To add new CE60</p> <p>Determination of attendance and representation at conferences, courses and seminars by Members, in consultation with the Leader of the Council.</p>	<p>Request of Chief Executive</p>
<p>Page 91 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>To add additional Officer Delegations</p> <p>[See attached at R3]</p>	<p>Request of Director of Neighbourhood Services/ Licensing</p>

Changes to remit to implement Gaming Act 2005.

## Licensing Committee 2

The Licensing Committee 2, which is made up of 15 members of the Council will deal with:

- (1) all functions of the Licensing Authority in accordance with the Licensing Act 2003, save for the determination of Policy to be contained in the Licensing Statement in accordance with Section 5 of the Licensing Act 2003.
- (2) all functions of the Licensing Authority in accordance with the Gambling Act 2005, save
  - (i) for the determination of Policy to be contained in the Statement of Principles in accordance with Section 349 of the Gambling Act 2005, and
  - (ii) power to pass a resolution under s166 of the Gambling Act 2005

Licensing Committee 2 may also deal with such other functions of the Authority which relate to a matter referred to Licensing Committee 2 as a licensing function under the Licensing Act 2003 either as are described in the Schedule below or as arranged by the Authority to be discharged by Licensing Committee 2.

The greater part of the licensing functions and its enforcement shall be delegated to its Sub-Committees or Officers but the Committee shall meet as and when necessary to consider any of the licensing functions or other irregular circumstances relating to a licensing matter and to review and make recommendations to Council upon policies in relation to licensing matters and the Licensing Statement.

Meetings of the Licensing Committee will be held in public unless exemptions referred to in Schedule 12A of the Local Government Act 1972 apply. In the interests of Human Rights and transparency of decision-making, the public are able to address the Committee.

The following matters will be dealt with at meetings of the Committee:-

1. To review and make recommendations to Council upon policies in relation to licensing matters *under the Licensing Act 2003* and the Licensing Statement.
2. To discharge the Council's functions as a licensing authority under the Licensing Act 2003, within agreed policy, including enforcement.
3. To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the Statement of Principles
4. To discharge the Council's functions as a licensing authority under the Gambling Act 2005, within agreed policy, including enforcement
5. To establish one or more sub-committees and to arrange for them to discharge any of the functions exercisable by the committee.

6. To arrange for the discharge of any of the licensing functions exercisable by the committee by an officer of the licensing authority subject to the limitations set out in section 10(4) of the Licensing Act 2003 and section 154 of the Gambling Act 2005 .

In addition to the Functions of the Licensing Authority contained in the Licensing Act 2003, the Licensing Committee 2 (and its sub-committees) may be responsible for carrying out the following functions if they relate to a matter before the Committee (or sub-committee) when undertaking its functions under the Licensing Act 2003, which are identified in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The table identifies in the right hand column where authority has been delegated to Officers.

## R2

Page 62 – Part 3 Responsibility for Functions.

C. Officer Delegations.

CE51 – Regulation of Investigatory Powers Act 2000 – to amend as follows:

<b>Regulation of Investigatory Powers Act 2000</b>		
CE51 (formerly CE74)	<p>Authority to grant authorisations under Section 28 (Authorisation and Directed Surveillance); that the Solicitor to the Council only shall have authority to appoint designated persons for the purposes of Section 22 of the Act.</p> <p>That only the Chief Executive, in consultation with the Solicitor to the Council, shall have power to authorise covert surveillance exercises under Section 29 of the Act, involving a CHIS or any exercises involving staff investigations.</p>	<p>Solicitor to the Council</p> <ul style="list-style-type: none"> <li>*Director of Neighbourhood Services.</li> <li>*Director of Resources.</li> <li>*Head of Financial Services.</li> <li>*Director of Housing.</li> <li>*Head of Housing Management</li> <li>*Head of Environmental Services.</li> <li>*Public Health Services Manager.</li> </ul> <p><i>*specifically linked to those duties and functions for which they are responsible.</i></p>
CE52 (formerly CE75)	<p>Authority to keep a central register of authorisations granted and generally monitor the issue of authorisations and procedures generally; to oversee training arrangements; to suspend authorisation of officers where training is required; to report annually to Cabinet on the operation of the Act.</p>	<p>Solicitor to the Council</p>

**R3**

Page 91 – Part 3 Responsibility for Functions.  
C. Officer Delegations.

To add following additional Officer Delegations:

	<b>The Gambling Act 2005 Functions</b>	
	<b>Premises</b>	
NS	Grant of Premises Licence under s159, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Variation to Premises Licence under s187, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Transfer of Premises Licence under s188, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Reinstatement of a Premises Licence under s195, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Provisional Statement under s204, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Rejection of an Application for review under s198	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer; in consultation with the Chair of Licensing Committee 2

NS	Grant and Renew a Family Entertainment Centre Gaming Machine Permit under s247 and Schedule 10, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant and Renew a Club Gaming Permit and a Club Machine Permit under s274 and Schedule 12, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant, Vary, Renew or Cancel a Licensed Premises Gaming Machine Permit under s283 and Schedule 13	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant and Renew a Prize Gaming Permit under s289 and Schedule 14, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	To institute prosecution proceedings in accordance with s 346 and s222 of the Local Government Act 1972	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	To make representations on behalf of the Licensing Authority in accordance with the provisions of s161	Director of Neighbourhood Services
NS	To initiate a Review of a Premises Licence and serve Notice under s 200	Director of Neighbourhood Services
NS	To designate officers as authorised persons in accordance with s304	Director of Neighbourhood Services

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# Item 11

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### STANDARDS TRAINING EVENTS: 28<sup>TH</sup> SEPTEMBER, 9<sup>TH</sup> OCTOBER AND 23<sup>RD</sup> OCTOBER 2006: EVALUATION QUESTIONNAIRE FEEDBACK

#### 1. SUMMARY

- 1.1 This Report analyses the evaluation questionnaire responses from the training events on standard issues that were held on Thursday 28<sup>th</sup> September 2006 in the Council Chamber, Monday 9<sup>th</sup> October 2006 at Great Aycliffe Town Council and Monday 23<sup>rd</sup> October 2006 at Sedgefield Town Council. The training sessions were conducted by the monitoring Officer in each case
- 1.2 The event provided members with an update on standards issues, included the showing of the latest Standards Board DVD on local investigations and provided an opportunity to discuss current issues and receive feedback.

#### 2. RECOMMENDATIONS

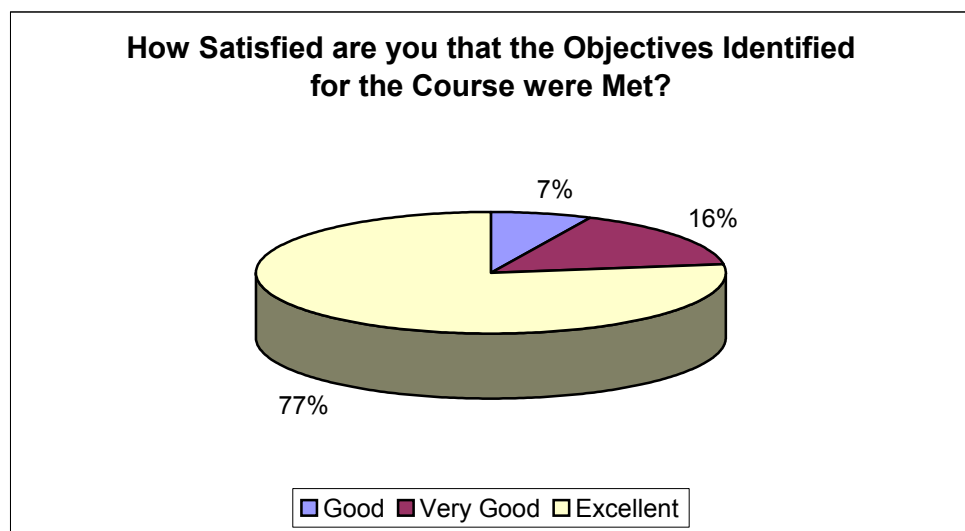
- 2.1 That the Standards Committee be appraised of the report.
- 2.2 That similar training events be arranged on an annual basis.

#### 3. DETAIL

- 3.1 The training events were specifically aimed at Members, however, several Town Clerks attended. 30 Members attended the first training event held in the Council Chamber on the 28<sup>th</sup> September and out of these 30, 23 Councillors completed the evaluation questionnaire.
- 3.2 15 delegates attended the second training event held at Great Aycliffe Town Council on the 9<sup>th</sup> October 2006 and all 15 delegates completed the questionnaire.
- 3.3 16 delegates attended the third training event held at Sedgefield Town Council on the 23<sup>rd</sup> October 2006 and out of these 16, only 7 completed the questionnaire.

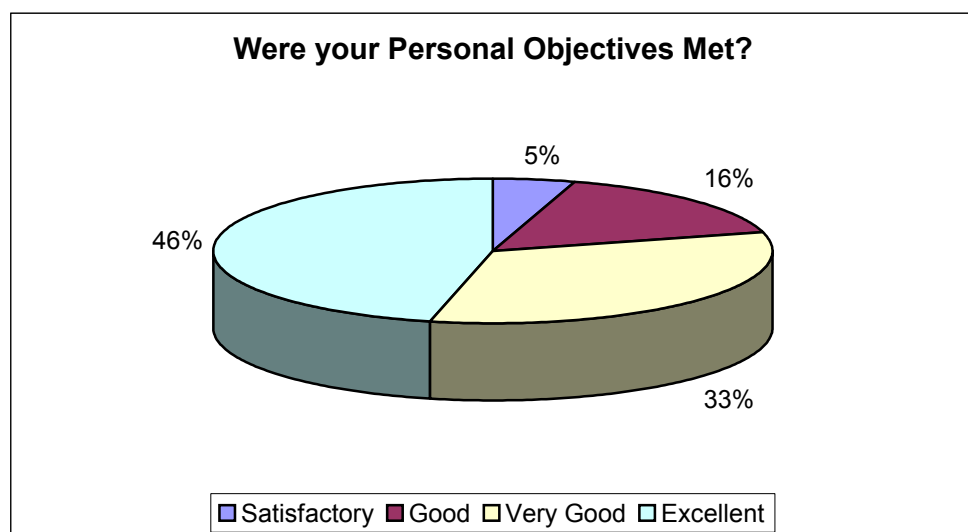
- 3.4 The questionnaire focused on three areas, which consisted of general information, a course satisfaction survey and comments.
- 3.5 **Course Satisfaction Survey:** All of the responses to the questions from the satisfaction survey have been correlated and conclusions have been drawn. The following analysis is based on the collective questionnaire responses from all 3 training events.
- 3.6 *How satisfied are you that the objectives identified for the course were met?* The responses to this question were extremely positive, 77% of the delegates were highly satisfied and all delegates were of the opinion that the objectives identified for the course were met to a good or very good level.

3.7



3.8 *Were your personal objectives met?* All of the delegates thought that their personal objectives had been met, 46% to a very high standard.

3.9

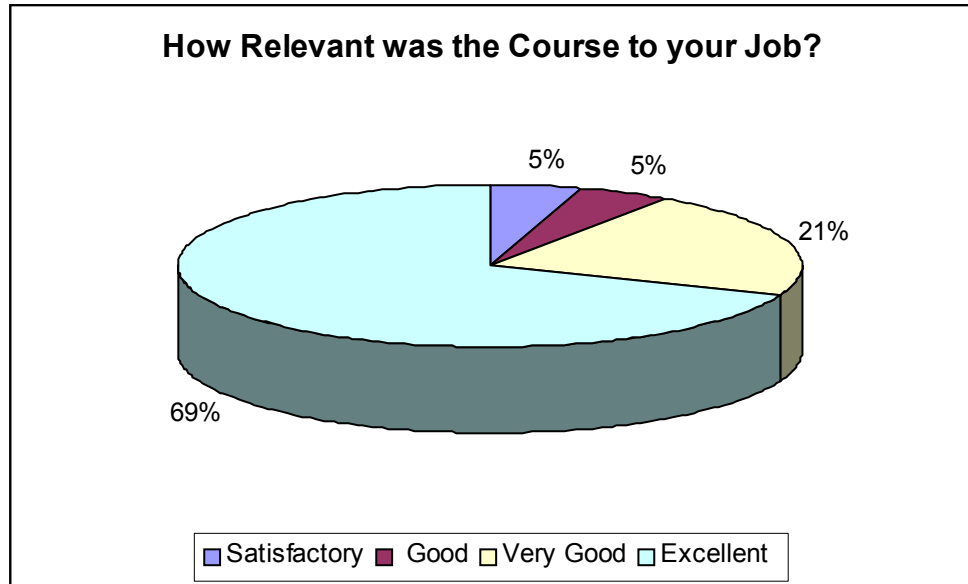


3.10 *How relevant was the course to your Job?* As expected the



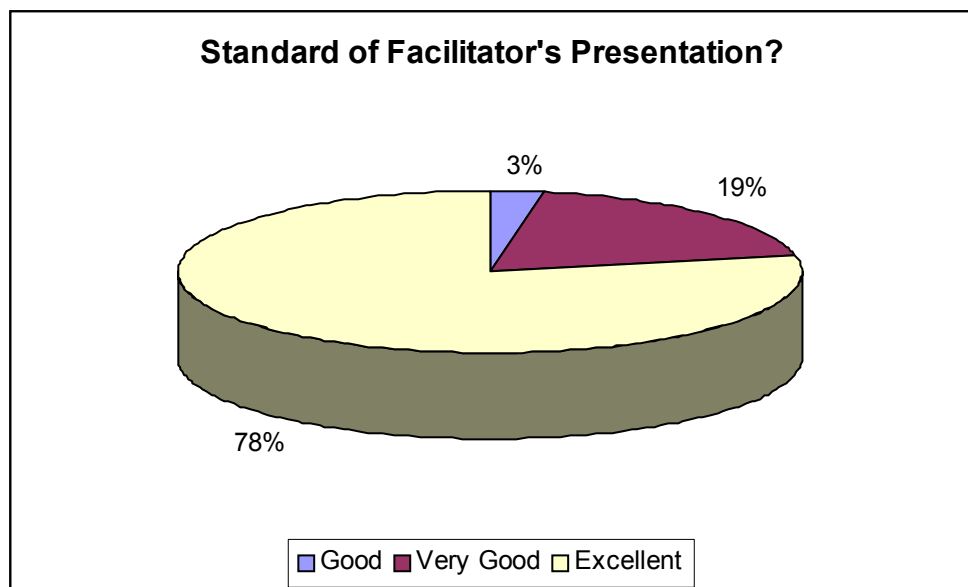
Course was very relevant to the majority of the delegates because the course was aimed specifically at Members.

3.11



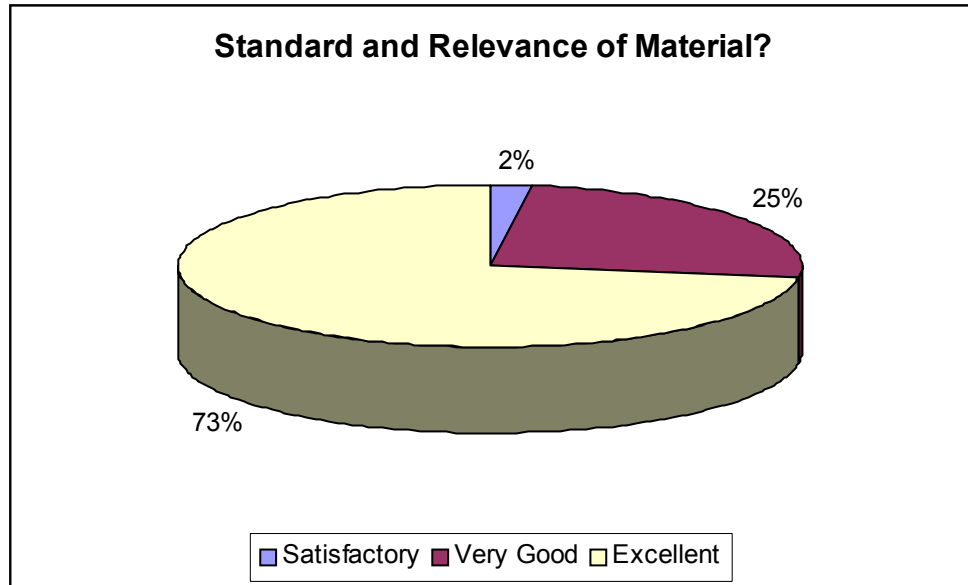
3.12 *Standard of facilitator's presentation?* The standard of the facilitator's presentation was extremely high, 78% of the delegates thought that the presentation was excellent.

3.13



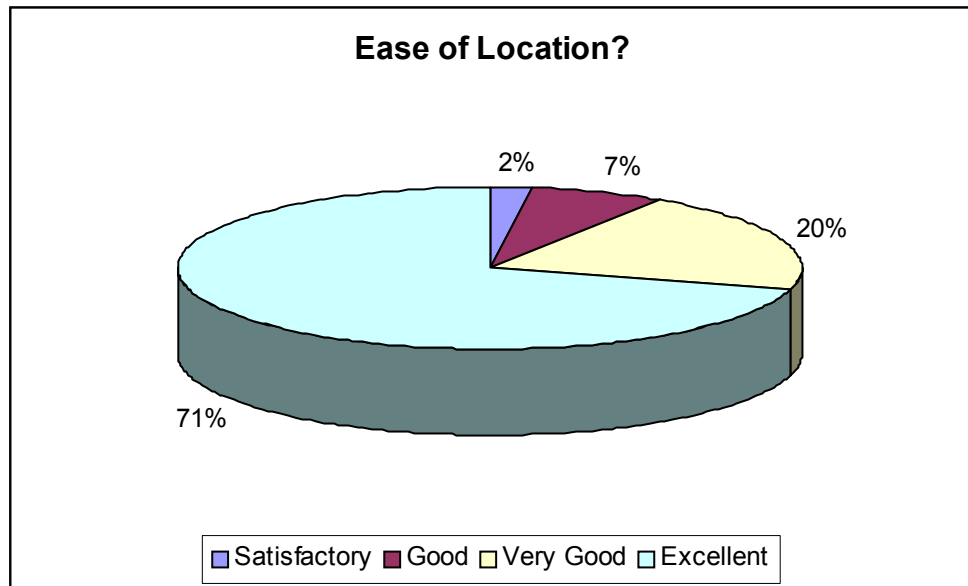
3.14 *Standard and relevance of materials?* Over half of the delegates agreed that the standard and relevance of the material was outstanding. As shown the remaining delegates were more than satisfied with the material.

3.15



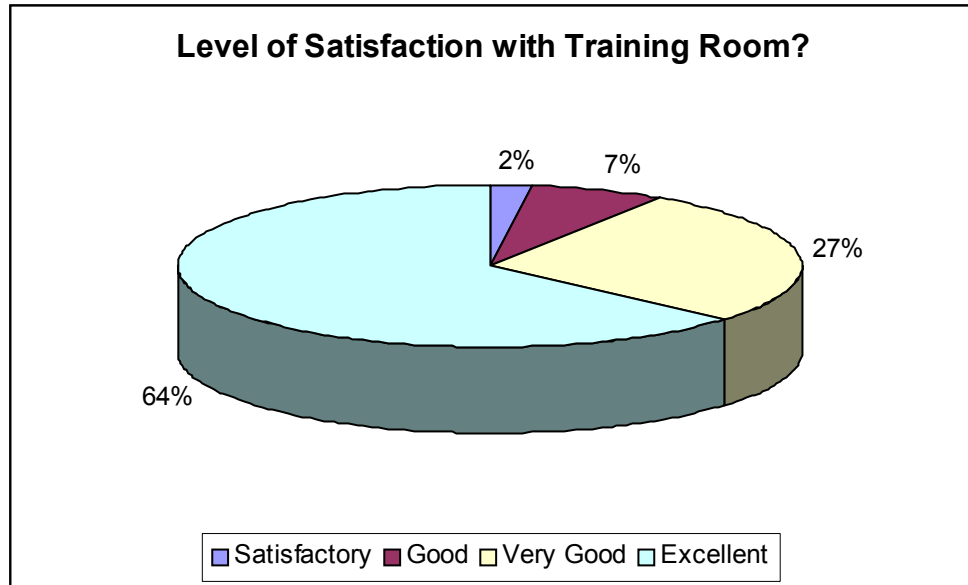
3.16 *Ease of access to location?* Almost  $\frac{3}{4}$  of the delegates thought that the location was excellent, possibly because the delegates were familiar with the location from previous meetings and training.

3.17



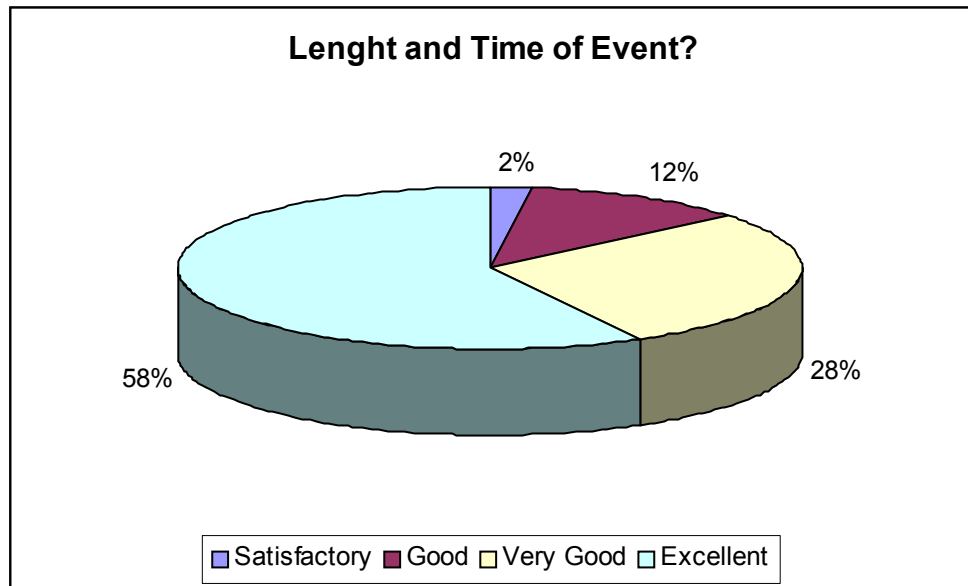
3.18 *Level of satisfaction with training room?* 91% of the delegates agreed that the training room was of a very good or higher standard.

3.19



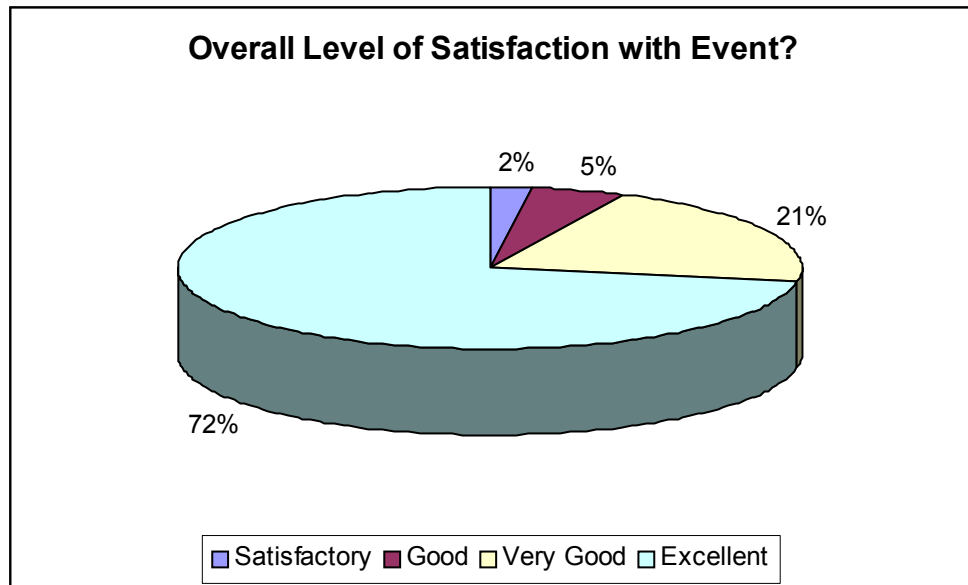
3.20 *Length and timing of event?* More than half of the delegates agreed that the length and time of the event was excellent. Only 2% thought it was satisfactory.

3.21



3.22 *Overall level of satisfaction with event?* As the figures show below, the event was a huge success with the majority of delegates expressing a high level of overall satisfaction.

3.23



3.24 **Comments:** The majority of the questionnaires contained positive feedback and comments. Some of the comments included:

- The video was an excellent tool and very enjoyable.
- Well presented and very informative.
- All questions had a reply.
- Well worth attending, a must for all members.

3.25 Several suggestions were made to further improve the event, including:

- More training on the “process of what happens next”.
- DVD mandatory for all Members.
- Use an actual case example.
- Cover wider area of examples.

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

4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

5.1 The Council’s Management Team has considered this report.

#### **6. OTHER MATERIAL CONSIDERATIONS**

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless members of Council are fully appraised on standards matters.

**7. OVERVIEW AND SCRUTINY IMPLICATIONS**

7.1 None apply.

**8. LIST OF APPENDICES**

8.1 None apply.

**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**

Evaluation Questionnaires: 28<sup>th</sup> September 2006, 9<sup>th</sup> October 2006 and 23<sup>rd</sup> October 2006

**Examination by Statutory Officers**

	<b>Yes</b>	<b>Not Applicable</b>
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils 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 12

## REPORT TO STANDARDS COMMITTEE

8<sup>th</sup> February 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### REVISED MODEL CODE OF CONDUCT FOR MEMBERS

#### 1. SUMMARY

- 1.1 Recently, the Government has published a Consultation Paper, which seeks views on a proposed new model Code of Conduct for Members. This report provides an explanatory commentary on the new proposals.
- 1.2 The Local Government White Paper, Strong and Prosperous Communities, published in October 2006 announced the Government's intention to put in place a clearer, simpler and more proportionate Code of Conduct for Members, which would include changes to the rules on personal and prejudicial interests.
- 1.3 The Government is also proposing to combine the current four individual Codes into one consolidated Code. The four model Codes are the Local Authorities (Model Code of Conduct) Local Authorities (Model Code of Conduct)(England) Order 2001, the Parish Councils (Model Code of Conduct) Order 2001, the National Park and Broads Authorities (Model Code of Conduct)(England) Order 2001 and the Police Authorities (Model Code of Conduct) Order 2001.

#### 2. RECOMMENDATIONS

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

#### 3. DETAIL

- 3.1 The decision to amend the Code so as to make it more effective and proportionate formed part of the Government's wider review of the conduct regime, the Code will be made clearer but will maintain a rigorous approach to the identification of serious misconduct.
- 3.2 **Unlawful Discrimination:** Paragraph 2(a) of the current Code provides that a Member must promote equality by not discriminating unlawfully against any person. It is proposed that any reference to unlawful discrimination will be deleted. In an Adjudication Panel finding in 2005 it was concluded that the Panel has no jurisdiction to make findings of unlawful discrimination. Therefore, this deletion is to ensure that unlawful discrimination is not an issue on which a Panel may be required to make a determination. The Government propose to replace

Paragraph 2(a) with a provision proscribing Members from doing anything that would seriously prejudice their authority's statutory duties in regards to equality. The provision in the current Code requiring Members to treat others with respect will be retained.

- 3.3 **Bullying:** Currently, the Code makes no specific reference to bullying. It is proposed that a provision indicating that Members must not bully any person should be added to the Code. For example, that bullying of other Members, Officers or anyone else is a breach of the Code of Conduct. It is to be made clear that bullying should play no part in Member's conduct.
- 3.4 **Disclosure of Confidential Information:** Paragraph 3(a) of the Code currently provides that a Member should not disclose information given to them in confidence or which the Member believes to be of a confidential nature. An Adjudication Panel decision confirmed as a matter of law, that Paragraph 3(a) of the Code fails to take into account Article 10(1) of the European Convention on Human Rights and therefore, the Code should read so as to allow for the disclosure of information of a confidential nature where it is in the public interest to do so.
- 3.5 **Behaviour Outside Official Duties:** Paragraphs 4 and 5 of the Code will be amended so that in terms of a Member's behaviour in private life, conduct, which amounts to a criminal offence, as well as behaviour which would be regarded as criminal but for which a conviction has not been secured, could be regarded as bringing the Member's office or authority into disrepute under the terms of the new Code.
- 3.6 **Using or Seeking to use improper influence:** Paragraph 5(a) currently provides that a Member must not in his or her official capacity or any other circumstance use his or her position as a Member improperly to confer on or secure for himself or herself or any other person an advantage or disadvantage. A literal interpretation of this provision might mean that it does not cover unsuccessful attempts by the Member to use his or her position in this way. It has been proposed that this paragraph should provide that the Member should not either use or attempt to use his or her position to confer an advantage or disadvantage for himself or herself or anyone else.
- 3.7 It is proposed that a specific provision be added to Paragraph 5(b)(ii) to clarify the intention that an authority's resources should not be used improperly for party political purposes. The Government believes that it would be sensible to complement Paragraph 5 with the Code of Recommended Practice on Local Authority Publicity to make it clear that Members should not use resources improperly for political purposes.
- 3.8 **Reporting Breaches of the Code and Proscribing Intimidation:** Paragraph 7 of the existing Code provides that a Member must, if he or she becomes aware of another Member's breach of the Code, make an allegation to the Standards Board of that breach. It is proposed that



this requirement to report other Members' breaches of the Code be deleted, as it has been perceived by some as encouraging Councillors to make trivial allegations.

- 3.9 However, at the same time, to protect Members who do report serious misconduct from victimisation, a provision is proposed to be added prohibiting a Member from intimidating or attempting to intimidate a complainant or witness, people carrying out the investigation, support staff and others involved in the case.
- 3.10 **Gifts and Hospitality:** The Government wish to reinforce the principles of accountability and openness of the conduct regime by requiring that information about gifts and hospitality be included in the Register of Interests. Therefore, it is proposed that the receipt of gifts and hospitality over £25 in value should be an interest that should be registered as a personal interest. However, to ensure that this provision is proportionate, the requirement to disclose the personal interest in a meeting would cease after five years following the receipt of the gift or hospitality, although would still remain on the Register as a personal interest.
- 3.11 **Interests of family, friends, and those with a Close Personal Association:** It is proposed that the definition of personal interest include matters affecting a range of personal, business and professional associates, as well as people who would be specifically termed as "friends". Reference has therefore been added to any person with whom the Member has a close personal association. The definitions of family and friend will be deleted from the Code.
- 3.12 **Definition of Personal Interests:** Paragraph 8 of the current Code provides that Members have a personal interest if they would be affected by a matter to a greater extent than other council taxpayers, ratepayers or inhabitants of the authority's area. The Government wish the Code to allow Members to be able more frequently to take part in council meetings, which their communities expect them to participate in, or on issues, in some cases, which they have been elected specifically to address. It is therefore proposed that the current requirement that a personal interest arises where a decision on it might be regarded as affecting the Member to a greater extent than other inhabitants of the authority's area, be replaced with a requirement that the personal interest arises only where the interest might reasonably be regarded as affecting the Member to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the ward, which is affected by the particular matter.
- 3.13 **Disclosure of Personal Interests:** The proposals suggest that it would be sensible and more proportionate to amend the provisions relating to disclosure of personal interests. It is intended that an interest is only disclosable in respect of a family member, friend or a person with a close personal association if the Member is aware or ought reasonably to be aware of the interest held by that person.

- 3.14 **Public Service Interests:** A new definition of ‘public service interest’ is to be added to the Code. It is defined as an interest, which arises where a Member is also a member of another public body, to which they have been appointed or nominated by the authority, or of which they are a Member in their own right. Members would be required to enter any such interest they have in the Register of Interests.
- 3.15 However, instead of requiring that public service interests be declared at the start of any relevant business, it will be that such interests only be declared at the time when the Member speaks on the relevant issue. The aim of this is to avoid the current onerous requirement by which lengthy periods at the start of business on a particular issue can be spent by Members in declaring their personal interests in the particular issue, even if many or all of those members have no intention to take part in the debate on that subject.
- 3.16 The Government wish to provide for clearer and more proportionate rules to apply in respect of participation in council meetings for those who have public sector interests, for example, those who are Members of another authority or a charity or lobbying body, and for those who are attending meetings to make representations.
- 3.17 It has been considered that the fact that an issue considered by one body may affect another body with which the Member is involved does not necessarily mean that the Member’s judgment of the public interest will be prejudiced. In such cases, the public service interest should only be considered prejudicial where:
- (a) the matter relates to the financial affairs of the body concerned, or
  - (b) where the matter relates to the determining of any approval, consent, licence or permission (e.g. in respect of planning and licensing) in relation to the body.
- 3.18 **Prejudicial Interests – List of Exemptions:** Three new items have been added to the list of interests, which are not to be regarded as prejudicial. This will mean that a Member will not have a prejudicial interest where the matter relates to the authority’s functions in respect of:
- Indemnities. This addition arises from the Standards Board’s experience of cases where, for example, Members have felt unable to vote in discussions on the issue by the authority of indemnities, which might relate to themselves, as well as a number of other Members of the Council.
  - The setting of council tax. We understand that some Members have been concerned that in discussing this issue, prejudicial interests may arise for them because of their connection with an organisation funded from an operational budget, which is being set by the council tax settlement. We consider that such an interest is likely to be too remote to be a prejudicial interest.

- Considering whether or not the Member should become a freeman of the authority.

3.19 **Sensitive Information:** Sensitive information, for example, where Members are employed in areas of sensitive employment, such as certain types of scientific research, need not be made public if to do so would threaten the safety of the Member or their family.

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

4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

5.1 This report has been prepared for Standards Committee immediately following publication of the consultation paper.

#### **6. OTHER MATERIAL CONSIDERATIONS**

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

#### **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

7.1 None apply.

#### **8. LIST OF APPENDICES**

8.1 None apply.

**Contact Officer:** Dennis A. Hall/Laura Starrs  
**Telephone Number:** 01388 816166, Ext. 4268  
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**Wards:** N/A

**Key Decision Validation:** N/A

### **Background Papers**

Amendments to the Model Code of Conduct for Local Authority Members  
Consultation Paper