

**STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT:  
THE FUTURE – DISCUSSION PAPER**  
(Report by the Director of Central Services and Monitoring Officer)

**1. INTRODUCTION**

- 1.1 The Committee will recall their involvement in the review of the Code of Conduct for Members undertaken by the Standards Board for England. The recommendations of the Board were presented to the Office of the Deputy Prime Minister (ODPM) last October.
- 1.2 Members also may recall that the Committee on Standards in Public Life (The Graham Committee) made recommendations on the local government conduct regime including the role of the Standards Board for England as did an ODPM select committee following its inquiry into the “role and effectiveness of the Standards Board for England”.
- 1.3 The ODPM has now published a discussion paper entitled “Standards of Conduct in English Local Government: The Future”. This draws together the Government’s view on the future of the conduct regime for local government and provides a co-ordinated response to the Graham and Select Committees and to the recommendations of the Standards Board.
- 1.4 The discussion paper also indicates the approach the Government is minded to follow on a Code of Conduct for employees which makes reference to the political restrictions placed on certain officer posts and the pay of political assistants. These issues fall within the terms of reference of the Employment Panel and so will not form part of this report.
- 1.5 Comments have been invited by the ODPM on the discussion paper although no closing date has been specified. A copy of the discussion paper can be viewed in full on the ODPMs website at [www.odpm.gov.uk/index.asp?id=1162582](http://www.odpm.gov.uk/index.asp?id=1162582). Paper copies are available on request from the Democratic Services Manager.

**2. PRINCIPLES FOR CHANGE**

- 2.1 The Government has applied the following principles in their review of the conduct regime and have acknowledged the need to establish a framework which would –
- ◆ maintain high standards of conduct for local authority Members and employees;
  - ◆ define effectively what standards of conduct are expected of Members and Officers and for such rules to be fair and clear;
  - ◆ provide effective arrangements of taking action when breaches of the rules occur and for such arrangements to be fair, clear, proportionate, rigorous and thorough; and
  - ◆ ensure measures are in place to guarantee public confidence in the appropriateness of the ethical regime.

- 2.2 The overall objective of the Government is to integrate the elements of the conduct regime – including the Code, the Standards Board and local Standard Committees – to ensure they work effectively together.

### **3. THE GOVERNMENT’S RESPONSE: A SUMMARY**

#### **The Code of Conduct**

- 3.1 Following recommendations by the Standards Board for England and taking into account the lessons learnt during the first three years of operation, the Government has agreed that amendments to the Code of Conduct are required to –
- ◆ make the Code clearer and simpler, whilst maintaining a vigorous approach to the identification of serious misconduct;
  - ◆ amend the regime for declaring interests and speaking at Council meetings particularly for Members who also serve on other public bodies;
  - ◆ make changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code; and
  - ◆ amend the rules on the reporting of all allegations by Members to reduce the number of vexatious complaints.
- 3.2 More specifically, the Government has accepted that there would be benefit in incorporating the ten general principles of public life as a preamble or an annex to the Code of Conduct as the principles would provide extra context for understanding the code. In response to the recommendation of the Board, the Government has agreed to delete the provision requiring Members to report all allegations of breaches of the Code by other Members as they believe this should discourage some trivial complaints. In addition, the Board has indicated its intention to work with political parties further to reduce politically inspired “tit for tat” complaints which can damage the public perception of local government.
- 3.3 Also accepted by the Government and taking into account the Freedom of Information Act were the recommendations which sought to establish a clearer balance between the need for an authority to protect genuinely confidential information and Members’ rights to make information available in the public interest. It also has been agreed that a specific provision should be added to the Code to clarify that bullying behaviour constitutes a breach although no definition of “bullying” has yet been specified.
- 3.4 The Government has accepted the Standards Board recommendation that the “offence” of conduct likely to bring the office or authority into disrepute should continue to apply to conduct outside official duties, but only where the conduct would be regarded as unlawful.
- 3.5 The Government has also indicated its intentions to narrow the definition of personal interests which Members are required to declare and to make amendments to the Code which will require the Member to declare his or her interest only at the point where he or she speaks on a relevant issue. Additionally, it is the view of the Government that when the Member has a prejudicial interest in a matter, he or she

should be able to speak at the meeting but withdraw before the vote. In terms of interests arising from membership of another public body, a charity or local pressure group, the Government has endorsed the recommendation of the Board that such interests now should only be treated as prejudicial where the matter under consideration would have a direct impact on the body concerned (for example a grant of money). Where the member is involved in a regulatory decision, such as planning or licensing, the Member should still be allowed to speak to the matter and answer questions before withdrawing prior to the debate and any vote. This would also apply when interests arise from membership of a charity or lobby group in order to enable Members who have campaigned on a community issue, or participated in a local residents' association to continue to represent their constituents, although the rules on pre determination would prevent their participation in the actual debate or vote on the matter.

### **Local Standards Committees and the Standards Board for England**

- 3.6 Following careful consideration of the recommendations of both the Committee on Standards on Public life and the ODPM Select Committee, the Government has concluded that there will be considerable benefit in the introduction of more local decision making. This change will mean the evolution of the Standards Board into a strategic body dealing with only the most serious cases nationally and will require capacity to be increased at local level by way of additional support, advice, guidance and workload arising from the investigation and determination of complaints. Clearly, this is likely to be particularly significant in Districts which are parished extensively.
- 3.7 The effect of the changes will impact on the roles of the Standards Committees, local authority officers who support the Committees (particularly Monitoring Officers), and the Standards Board for England.
- 3.8 It contended by the Government that Standards Committees should be at the heart of decision making within the conduct regime and that they should take the lead in ensuring high standards of conduct from that premise it is considered a logical step for Standards Committees to take on the initial assessment of all allegations, suggested that Monitoring Officers undertake the investigation of most allegations and that Committees make determinations of most cases. Only the most serious cases will be referred to the Standards Board for investigation.
- 3.9 It is the Government's view that a more locally based regime would provide an appropriate way for local knowledge of the authority and its Members to be fed into the decision making process enabling the experience and skills of the Monitoring Officer to be used more effectively. Such a regime might also give an opportunity for Standards Committees to spot politically inspired or vexatious complaints, which could mean that unworthy cases could be rejected as soon as possible, but handled with an understanding of local pressures and sensitivities.

- 3.10 It has been recognised that support will need to be provided to Standards Committees to enable the introduction of the new regime and to assist authorities in taking on their new responsibilities. The Government indicated that it will work closely with the Standards Board to ensure that guidance is provided on the role and responsibilities of Monitoring Officers and Standards Committees to ensure both are ready to take on their new roles. In support of this new extended role, the Government has recognised that authorities would also need to do more than at present to ensure that Monitoring Officers and Standards Committees are:
- ◆ properly supported;
  - ◆ are of the appropriate quality; and
  - ◆ are able to promote high standards of conduct throughout the Authority so that concern for conduct issues is embedded in every aspect of the Council's work.
- 3.11 The Government promotes the view that while Standards Committees should be required to have an Independent chair, they should not be obliged to have a majority of Independent Members. It is also expected that parish interests should continue to be properly represented. The Government has acknowledged the value there could be in Committees sharing their experiences and expertise, possibly joining forces to recruit Independent members or engage Monitoring Officer services.
- 3.12 As is mentioned earlier, the shifting emphasis in the system from central to increased local decision making will have a consequential effect on the role of the Standards Board for England. The Government considers that the Board should continue to have a central role in the conduct regime for local government. It is considered that the Board is already a champion and promoter of a consistently high standard of conduct across local government. Therefore it is suggested that the Board should continue in this role but focus on the provision and maintenance of a national framework of support for authorities to ensure that high standards continue locally.
- 3.13 It is suggested that arrangements be put in place for Committees to report to the Board on how they have been undertaking their role, probably via the submission of annual reports in a common format. The Board will monitor performance and provide advice to perceived poor performers. Standards Committees would refer only the most serious cases for investigation by the Board. The Board will have powers to refuse to take on referred cases if it believes they would be better handled locally or in circumstances when the authority merely wishes to avoid dealing with the allegations.
- 3.14 In the case of unacceptable performance by Standards Committees and where it is thought that they are not operating in the public interest, it is suggested that the Board will be able to withdraw a Committee's powers to deal with cases and for those cases instead to be handled by the Board itself. There will need to be clear criteria withdrawing an authority's powers to deal with cases.

## Capacity Measures

- 3.15 In recognition of the consequences of a move towards a more locally based conduct regime, particularly in those District Councils with large numbers of parishes, the Board has proposed that Standards Committees should consider combining into countywide committees for the assessment of parish cases so as to share the burden among authorities. The Government has indicated its intention to work with the Board to agree the most effective way to promote such joint working and cooperation and to consider whether a statutory requirement should be imposed on Standards Committees to cooperate or to require them to work together jointly. Because of the increasingly demanding role of Independent Members, the Government has accepted that there may also be a valuable function for the Board in setting guidelines for the recruitment of Independent Members and in overseeing the effectiveness of the recruitment process.
- 3.16 In terms of the role of Monitoring Officers, the Board will be invited to provide guidance on the role and responsibilities of Monitoring Officers, setting out the requirements they will need to do their job. Training and support will need to be provided to equip Monitoring Officers for their new role which it is suggested should be driven by Standards Committees as part of their ownership and championing of standards issues locally. Again, it is envisaged that the Board should assist in ensuring high standards are being achieved.
- 3.17 In terms of the roles of political leaders and senior managers, the Board will be required to undertake work with other key stakeholders to support leaders and Chief Executives of authorities in ensuring that concern about standards is embedded within as an organisational issue, including the provision of better and earlier induction of new Members and staff into their roles.

## 4. WHAT NEXT?

- 4.1 In summary, the headline issues where changes are proposed and whether amendments will be brought into effect by primary or secondary legislation are reflected as follows -

Issues for Secondary Legislation	Issues for Primary Legislation
All Chairs of Committees to be Independent and Committees to include independent members who reflect a balance of experience.	Initial assessment of all allegations of misconduct to be undertaken by Standards Committees, rather than the Standards Board.
Monitoring/reporting requirements for Standards Committees, so the Standards Board can check on progress.	Local Monitoring Officers to investigate most cases, and Standards Committees to determine most cases.

	The Board only to investigate the most serious cases.
	The Boards role to be redefined as supporting, monitoring and overseeing authorities' performance in dealing with allegations.
	Intervention powers for the Board when they consider Committees are not operating effectively.
	New provisions providing powers for Standards Committees to impose higher penalties to address the more serious cases.

- 4.2 The Government has recognised that some of the provisions to be implemented will require primary legislation. Subject to any views and debate which the discussion paper might provoke, the Government has indicated its intention to seek primary legislation at the next convenient opportunity as parliamentary time allows. Some of the proposals can, however, be introduced through secondary legislation which should allow their implementation potentially within a shorter time scale. There would be benefits in providing for a phased introduction of the new regime since there is a need for capacity building measures to be put in place so as to prepare Monitoring Officers and Standards Committees for their new roles and to allow time for the changes to evolve.

## 5. CONCLUSION

- 5.1 The Government believes that the approach promulgated by the discussion paper will deliver a clearer and more proportionate conduct regime for local government Members and employees and ensure that the public can continue to have confidence in those who serve them. The Government intend to work with the Standards Board and other stakeholders to carry forward the changes identified in the paper having regard to any comments and debate the paper itself generates.
- 5.2 Since the publication of the discussion paper, the Standards Board for England has written to Monitoring Officers to indicate its support for the more strategic role envisaged for the Board and for the more local approach to case handling and filtering of complaints. The Board anticipates that new legislation for this purpose should be in place by 2008. The Board has also indicated that the suggested changes to the Code might be implemented from May 2006. In the meantime the Committee may wish to note the Board's intention to continue the trend of referring an increasing number of cases for local investigation and determination wherever appropriate.
- 5.3 The views of the Committee are invited on the proposals in the discussion paper.

## **BACKGROUND PAPERS**

Standards of Conduct in English Local Government: The Future – Discussion Paper published by the Office of the Deputy Prime Minister December 2005

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