

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

9 MARCH 2006

**REPORT OF
CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Corporate - Lead Cabinet Member - Councillor Coleman

STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE

1. Summary

To enable Cabinet and Council to consider the Government's Discussion Paper - "Standards of Conduct in English Local Government: The Future" - which sets out its vision for a future comprehensive conduct regime for local authority Members and Officers.

2. Recommendations

It is recommended that:-

1. The report be considered, together with any comments made by the Council's Standards Committee; and that
2. The Director of Law and Democracy, in consultation with the Leader and the Deputy Leader, be authorised to submit to the ODPM any views on the Discussion Paper which the Authority wishes to make.

3. Reasons for the Recommendations/Decision(s)

To enable Members to consider the Government's response to the Graham Committee report "Getting the Balance Right", the ODMP Select Committee inquiry into the Standards Board's role and the Standards Board's Consultation on the code of conduct review.

4. Members Interests

Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public,

with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

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RECOMMENDATIONS

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DETAIL

Code of Conduct for Local Government Employees and Restrictions on Political Activities

1. A report was submitted to Cabinet on 14 October 2004, setting out details of two Consultation Papers from the ODPM regarding a local government employees Code of Conduct and a review of Political Restrictions.
2. It was agreed that responses should be submitted to both Papers. The main thrust of the feedback from the internal consultation which took place was that the proposed Code for employees was generally supported, and that the range of Officers covered by the current restrictions on political activities was considered to be too wide.

Code of Conduct for Members

3. Cabinet received a report on 7 April 2005 regarding the Standards Board's consultation paper in relation to the review of the Members' Code of Conduct. The report included details of the questions raised by the paper and the Council's Standards Committee's views on those questions. It was agreed that a response would be submitted to the paper, taking into account any comments expressed by Members of the Council.

The Government's Response

4. The Government has now published a Discussion Paper - "Standards of Conduct in English Local Government: The Future" - which sets out its vision for a future comprehensive conduct regime for local authority members and employees. Copies of the Paper have been provided to each of the Political Groups and a copy has been placed in the Members' Library. The web link to the document is <http://www.odpm.gov.uk/index.asp?id=1162582>
5. Previously, the Committee on Standards in Public Life (Graham Committee) made recommendations about the local government conduct regime including the role of the Standards Board for England, in Chapter 3 of its tenth report "Getting the Balance Right". The ODPM Select Committee also made recommendations following its inquiry into the "Role and Effectiveness of the Standards Board for England". Subsequently, last Autumn, the Standards Board presented recommendations to the ODPM following its review of the code of conduct for members which Ministers had asked the Board to conduct.
6. The Government's Discussion Paper reflects its response to the Graham and Select Committees, as well as having regard to the Standards Board's recommendations for amending the code of conduct for members.
7. The Paper also indicates the approach the Government is minded to follow on the conduct of employees, in particular on the political restrictions which apply to local government employees, the pay of political assistants and a code of conduct for employees. In reaching these views, the Government has had regard to the responses received to the consultation that the ODPM undertook on these issues in 2004.
8. The overall approach to conduct set out in the Paper would involve the following principal changes to current arrangements:-

Conduct Regime for Local Councillors

- Initial assessment of all misconduct allegations to be undertaken by Standards Committees, rather than the Standards Board;
- Local Standards Committees to be responsible for investigating and determining most cases;
- The Standards Board to adopt a more strategic, advisory and monitoring role, but retaining responsibility for investigating the most serious misconduct allegations;
- Improvements to the operation and composition of local Standards Committees, with independent chairs and committees to include independent members with a balance of experience (but no requirement for co-opted independent members to comprise a majority);
- mandatory annual reports from Standards Committees to the Standards Board in a common prescribed format to enable the Standards Board to monitor Standards Committee's performance;
- national rules will determine under what circumstances Standards Committees have to refer case to the Standards Board for investigation;
- clear criteria will be published enabling the Standards Board to withdraw a Committee's process if it is considered the committee is not acting in the public interest or is performing in a way that is unacceptable;
- Standards Committees to be given power to impose increased levels of sanction from the current maximum three month's suspension;
- a positive approach on exploring further:

a countywide Standards Committee to hear parish councils cases
sharing Monitoring Officer services between authorities
joint recruitment exercises between authorities for independent member appointments

Changing the Code of Conduct

- making the Code clearer and simpler; but
- maintaining a rigorous approach to the identification of serious misconduct;
- amending the regime for declaring interests and speaking at council meetings particularly for members who also serve on other public bodies;
- making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code; and
- amending the rules on the reporting of allegations by members to reduce the number of vexatious complaints.

In particular the following key changes are proposed:

- The general principles, currently contained in a separate Order, should be published as an attachment to the Code to serve as a reminder of the guiding principles for member conduct and give a positive tone to the provisions of the Code.
- Certain behaviour outside official duties should continue to be regulated, but this should be restricted only to matters that would be regarded as unlawful
- In relation to appointments to other public bodies, amendments to the Code will adopt a solution involving the member making a declaration of personal interest at the time when he speaks on a relevant issue (rather than at the start of the meeting). The definition of a personal interest will be narrowed. In addition, even where the member has a prejudicial interest in the matter relating to the body he represents (eg where the matter has a direct impact on the body concerned, or where the member is involved in regulatory matters in a decision-making capacity such as in respect of planning and licensing), he should be allowed to remain in the meeting to speak on behalf of the body, or on behalf of a campaign that he supports and answer questions, but should withdraw before the debate and the vote.
- A similar approach is to be adopted to members having a personal or prejudicial interest in a planning application.
- The “whistleblowing” obligation to report breaches of the Code will be abolished.
- Bullying by members of fellow members and officers will be more a specific breach of the Code as will seeking to intimidate a complainant or witness.

Conduct Regime for Local Government Employees

- Issue a Code of Conduct for Local Government Employees;
- Retain the current principle that senior and sensitive posts should be politically restricted, but to ensure that only the most senior and sensitive posts are covered;
- Discontinue the post of the Independent Adjudicator, and provide for authorities’ Standards Committees to make decisions on posts exempt from restrictions;
- Uprate the current rate of pay for political assistants by Statutory Instrument, and provide for future increases to be permanently linked to local government pay scales.

9. The Government now intends 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. The Government recognises that certain of these changes would require primary legislation and it intends to seek this at the next convenient opportunity Parliamentary time allows.

10. Details of the Government's responses to the Graham Committee and to the ODPM Select Committee, are included in the Discussion Paper.

The Council's Standards Committee

11. The Council's Standards Committee has already received a similar report regarding the Discussion Paper. The Committee was broadly in support of the proposals in the Paper.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

12. There are no financial implications arising directly from this report. There will be associated Member and Officer training and development costs to be met from within existing budgets.

Legal

13. There are existing statutory powers under the Local Government Act 2000 and the Local Government and Housing Act 1989 and related regulations which would enable certain of the proposals in the Paper to be introduced by new secondary legislation eg issuing a code of conduct for employees and uprating the current rate of pay of political assistants. Other proposals will require primary legislation eg ensuring the current political restriction rules apply only to the most senior or sensitive posts, and increasing the local investigative/determination role for Monitoring Officers and Standards Committees.

RISK ASSESSMENT

14. The issues identified within the report and Discussion Paper are assessed as medium to high risk. However, existing management systems and appropriate training and development will be sufficient to monitor and control the risk.

COMMUNITY STRATEGY IMPLICATIONS

15. None directly. Codes of conduct and officers political neutrality are, however, central to the ethical framework and the Authority's corporate governance which is indirectly linked to democratic participation.

CONSULTATION INCLUDING WARD COUNCILLORS

16. The previous consultation papers and the Code of Conduct consultation exercise were drawn to the attention of all Members. Copies of the Government's Discussion Paper have been provided electronically to each of the political groups. A copy has also been placed in the Members' Library. The Standards Committee has received a separate report about the Paper

Director of Law and Democracy

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Background Papers: Government's Discussion Paper as referred to in the report.

Ward(s) and Ward Councillors: Not ward specific. The report is relevant to all Members

Property Implications: None