

**STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE
STANDARDS COMMITTEE item 4**

Committee:	STANDARDS COMMITTEE	Agenda Item
Date:	16 JANUARY 2006	4
Title:	STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE	
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Summary

- 1 The Local Government Act 2000 introduced a new regime designed to maintain high standards of conduct in local government. The Act created a body known as the Standards Board for England, which was responsible for monitoring all complaints regarding alleged misconduct on the part of members of local authorities. Prior to 4 November 2004, where the Standards Board were of the opinion that an investigation should take place, it could only refer the matter to an ethical standards officer to conduct an investigation. Since 4 November 2004, the ethical standards officer has had power to refer complaints to a monitoring officer for investigation.
- 2 The Act also contained provisions requiring local authorities to adopt a code of conduct. The precise content of the code was left for authorities to decide, but regulations made under the Act impose minimum requirements which must be included in any code. The Standards Board's guidance was that authorities should adopt the model code of conduct without amendment. Most (if not all) authorities accepted this advice and Uttlesford District Council's Code of Conduct mirrors exactly the provisions of the model code.
- 3 In spring 2005, the Standards Board consulted widely on the operation of the Code. As a result, it made a number of recommendations to the Government which at the same time considered the Graham Report (the 10th report of the Graham Committee on Standards in Public Life). As a result, certain changes are proposed both to the Code of Conduct and to the manner in which standards of conduct in public life are upheld. This report informs Members of the proposed reforms.

Recommendations

- 4 Members determine whether they wish to make any comments upon the Government's proposals to the Office of the Deputy Prime Minister.

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- 5 Members decide whether they wishes to propose to Full Council and/or town and parish councils within the District, amendments to the Code of Conduct at this stage.
- 6 Whether Members wish to offer guidance to members of the Council and members of town and parish councils on the status of the current Code of Conduct

Background Papers

- 7 Standards of conduct in English Local Government: The Future published by the ODPM available at www.odpm.gov.uk Report of the Committee on standards in Public Life (Graham Committee) available at www.public-standards.gov.uk Standards Board for England’s Recommendations for the Code of Conduct available at www.standardsboard.co.uk.

Impact

Communication/Consultation	If adopted, the proposed amendments will give Members greater freedom to act as advocates for their constituencies and/or outside bodies.
Community Safety	None.
Equalities	None.
Finance	None.
Human Rights	The current Code of Conduct places restrictions on Members speaking at certain meetings of the Council. This could be seen to be a breach of Article 10 Schedule 1 Human Rights Act 1998 which provides that “everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to perceive and impart information and ideas without interference by public authority...”. This right is subject to formalities, conditions, restrictions or penalties prescribed by law and necessary in a democratic society on a number of

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	grounds set out in Paragraph 2 of Article 10. Without expressing any view as to the compatibility of the current Code of Conduct with Article 10 the relaxation will clearly be more compatible with that article.
Legal implications	Where the proposed amendments suggest additions to the Code (eg incorporating the general principles of conduct in local government in to the Code and having specific provisions to deal with bullying), it is open to local authorities to adopt these without the waiting primary or secondary legislation. Where the proposed amendments are less strict than the existing Code of Conduct however legislation will be required before amendments can be affected. Until such legislation is in force, Members remain bound by the existing Code of Conduct.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

8 The Government have considered reports from the Graham Committee and the Standards Board which have made certain recommendations regarding the monitoring of standards of conduct in Local Government. The Government accepts the recommendations which have been made and has indicated that it will introduce the necessary primary and secondary legislation to give affect to these recommendations in due course. Whilst the Government is not proposing consulting further on the proposed amendments (consultation having been undertaken during the preparation of the reports which the Government has now considered), the Government has indicated that interested parties may communicate their views on the proposals to the Government. This matter is brought to Members now, as although there is no formal closing period for comments, in the absence of a consultation exercise, any views should be communicated to the Office of the Deputy Prime Minister as soon as possible.

9 It is proposed that the role of the Standards Board will change. The Board will be a strategic arms length body and will only deal with most serious cases nationally. The emphasis on dealing with complaints will switch to standards

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committees. Once the necessary legislation is in place, standards committees and not the Standards Board will be responsible for monitoring complaints of alleged breaches of the Code and determining which should be passed for investigation. Investigations will usually be undertaken by monitoring officers (or those designated by them) and standards committees will deal with most cases. Only the most serious cases would be referred to the Standards Board for investigation. The Board will have power to refuse to take on referred cases if it believes they would be better handled locally. The Board will monitor the performance of standards committees with default powers to withdraw the ability to determine cases locally.

- 10 It is proposed that it should be a legal requirement that the chairman of standards committees should be independent members. There is also likely to be a requirement that committees include independent members who reflect a balance of experience. It is intended that the powers of the standards committee to impose sanctions should be increased to enable committees to deal with more serious cases.
- 11 The Government acknowledge that the proposed changes will impose a greater workload on standards committees and that across district boundaries, there will be disparity in workloads with some areas having a larger number of parishes than others. There will therefore be provisions enabling standards committees to combine to enable countywide committees to deal with parish cases. It is probable that the Standards Board will give guidelines for the recruitment of independent members and may oversee the recruitment process.
- 12 Some local government posts are politically restricted. Post holders may not be members of political parties nor may they seek elected office other than at town or parish level. An independent adjudicator appointed by the Government is empowered to grant exemptions from the political restrictions. It is proposed that the role of the independent adjudicator should be abolished and that his functions should be undertaken by standards committees.
- 13 The following amendments are proposed to the Code of Conduct.
 - (i) The definition of personal and prejudicial interests is to be clarified. There will be an emphasis on giving greater support to the councillors' role as an advocate for the community and a reduction in the number of personal interests which need to be declared. Greater discretion is proposed for the local grant of dispensations.

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- (ii) Whilst no alterations are proposed to the type of interests which need registering, it is proposed that the register of gifts and hospitality should be made publicly available.
- (iii) Whilst the Code will continue to deal with disrespect on the same basis as at present, there will be a separate provision dealing with bullying of members, officers and/or the public.
- (iv) Whilst it will continue to be a breach of the Code to disclose information made available in confidence, the Code will allow disclosure where it can be demonstrated that this was in the public interest and particular regard will be had to the impact of the Freedom of Information Act upon confidentiality.
- (v) Whilst the provisions requiring Members not to bring the authority into disrepute, will continue to apply to actions or omissions in the Members private capacity as well as a councillor, where the allegation relates to matters not relating to council business, it will not be a breach of the Code unless it relates to unlawful activities.
- (vi) Local protocols dealing with use of council resources by Members should be enforced locally, but serious misuse of resources, particularly for political benefit, should be regulated nationally.
- (vii) The current duty of Members to report suspected breaches of the Code of Conduct will be abolished. There will be new provisions to protect those who do complain from intimidation and an emphasis to take steps to discourage vexatious complaints.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The Code of Conduct is relaxed to a degree that public confidence in local democracy is	Low	High. The Code of Conduct was introduced to boost public confidence in local democracy. However, to an extent, the operation of the Standards Board to date has undermined that objective. The requirement	The Standards Committee should monitor the necessary legislation when the same appears in draft format and make

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<p>undermined.</p>		<p>for all complaints to be vetted by the Standards Board led to delays. The delay on the part of the Government in introducing regulations permitting matters to be referred to the local standards committee for determination and the monitoring officer for investigation caused delays. It further brought the system into disrepute in that where a matter would have been referred for local determination/investigation; ethical standards officers were as a matter of policy, imposing no sanction.</p>	<p>representations as may be necessary in the event of any departure from the Standards Board recommendations.</p>
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