

**STANDARDS COMMITTEE - 2<sup>ND</sup> FEBRUARY 2006**

**REPORT OF MONITORING OFFICER**

**PROPOSED CHANGES TO THE FRAMEWORK GOVERNING STANDARDS OF CONDUCT**

**Purpose of Report**

1. To consider the Government's proposals for changing the framework governing standards of conduct in local government.

**Background**

2. The Office of the Deputy Prime Minister (ODPM) has recently published a Discussion Paper entitled "Standards of Conduct in English Local Government : The Future", setting out the Government's vision for a future comprehensive conduct regime for local authority members and officers.
3. The Discussion Paper is the ODPM's response to recent reports published by the Committee on Standards in Public Life (Graham Committee), the ODPM Select Committee on the Role and Effectiveness of the Standards Board for England and the Standards Board for England itself which undertook a recent review of the Members' Code of Conduct.
4. A copy of the Discussion Paper has been placed in the Members' room.
5. In summary, the ODPM's proposals for the conduct regime for local Councillors includes:-
  - The initial assessment of all misconduct allegations will be undertaken by local Standards Committees rather than the Standards Board.
  - Local Standards Committees will be responsible for investigating and determining most cases.
  - The Standards Board will adopt a more strategic, advisory and monitoring role, but will retain responsibility for investigating the most serious misconduct allegations.

- There will be improvements to the operation and composition of local Standards Committees with independent Chairs and committees to include independent members with a balance of experience.
  - The Members' Code of Conduct will be made clearer and simpler in accordance with the recommendations of the Standards Board.
6. The recommendations of the Standards Board are set out in Appendix 1 of this report. The recommendations include:-
- The inclusion of the original "Nolan Principles" (as set out on Appendix 2) as a preamble to the Code.
  - The inclusion of a specific provision on bullying.
  - Amending the Code to allow members to disclose confidential information where it can be demonstrated that such disclosure was in the public interest.
  - Continuing to regulate certain behaviour outside official duties but only where such behaviour would be regarded as unlawful conduct.
  - Permitting local protocols to deal with the use of public resources by members with the Standards Board only becoming involved in cases of serious misuse.
  - Removing the duty on members to report breaches by other members.
  - Including protection in the Code against intimidation of complainants and witnesses.
  - Clarifying the rules for personal and prejudicial interests especially for members who sit on more than one public body.
  - Replacing the term "friend" with "close personal associate" or other suitable alternative expression.
  - Redefining a personal interest so that members do not need to declare an interest where it is merely something that they share with a wide community.
  - Introducing the concept of a "Public Service Interest" where a member serves on another public body or is advocating on behalf of an outside body such as a charity or local pressure group.
  - Giving greater local discretion to grant dispensations.
  - Enabling employment details of members engaged in sensitive employment to be included in a private register rather than the public register of interests.
7. The Discussion Paper also proposed the following conduct regime for local government employees:-

- The issue of a Code of Conduct for local government employees.
  - Retention of the current principle that senior and sensitive posts should be politically restricted but ensuring that only the most senior and sensitive posts are covered by this restriction.
  - Discontinuing the post of the Independent Adjudicator and providing for local Standards Committees to make decisions on posts that should be exempt from being politically restricted
8. The view of the ODPM is that the above approach would both 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.
  9. Many of the proposals will require new primary legislation and the Government has indicated that they intend to seek primary legislation at the next convenient opportunity as Parliamentary time allows.
  10. On the whole these proposals should be welcomed because they will remove a number of anomalies from the existing Code and enable most alleged breaches to be dealt with locally. Potentially, however, this will lead to an increased workload for the Standards Committee, the Monitoring Officer, the Deputy Monitoring Officer and support staff. Whilst the workload will be difficult to predict with any real accuracy, we should be able to absorb it within existing resources and it is hoped that the ongoing work of the Standards Committee to promote and maintain high standards of conduct by members would limit the number of alleged breaches of the Code.
  11. The ODPM would welcome responses from local authorities on the proposals contained in the Discussion Paper. The Standards Committee is therefore asked to consider the proposals and authorise the Monitoring Officer to submit a response on its behalf.

### **Finance**

12. Any additional financial implications arising from these proposals should be met from existing budgets.

### **Law**

13. The conduct regime is governed by Part III of the Local Government Act 2000 and Regulations made thereunder by the Secretary of State.

### **Equality Impact**

14. The promotion and maintenance of high standards of conduct in local government are entirely consistent with the Council's policies on equality and diversity.

## **Recommendation**

15. It is recommended that the Standards Committee consider the proposals set out in the ODPM Discussion Paper and authorise the Monitoring Officer to submit a response on its behalf.

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## **List of Background Papers**

1. ODPM Discussion Paper – Standards of Conduct in English Local Government :  
The Future

**Recommendations of the Standards Board**

1. The Board proposes that the ten general Nolan principles be included as a preamble to the Code (See Appendix 2).
2. The Government needs to address the issue of paragraph 2(a) of the Code (promoting equality) and consider whether it can be made enforceable or whether it should be deleted and rather than the Code dealing explicitly only with unlawful discrimination, all forms of discrimination should be captured in an amended paragraph 2(b)
3. Paragraph 2(b) of the Code should continue to address disrespect in its current broad terms.
4. The Board recommends that the Code include a specific provision on bullying. The provision should be sufficiently broad to cover (a) both patterns of bullying behaviour and (b) single incidents of bullying of members, officers and members of the public. The Board recommends that the Code does not seek to define bullying.
5. The Code should be explicit in allowing members to disclose confidential information where it can be demonstrated that such disclosure was in the public interest.
6. The Government needs to consider the impact of the *Freedom of Information Act 2000* on confidentiality.
7. The Board recommends that certain behaviour outside official duties should continue to be regulated, but only matters that would be regarded as unlawful conduct.
8. The Board recommends that local protocols on use of resources should be enforced locally where appropriate, with the Board only becoming involved where serious misuse of public resources has been alleged.
9. Serious misuse of resources, particularly for political benefit, should be regulated nationally.
10. The Code should contain or provide for a broad definition of “inappropriate political purposes.”
11. The Board recommends that the duty to report breaches should be removed from the Code.
12. The Code should include protection against intimidation of complainants and witnesses.
13. All involved in the process, including members, need to take greater steps nationally and locally to discourage vexatious complaints.

14. The rules for personal and prejudicial interests should be clearer, especially for members who sit on more than one public body.
15. The Code does not require a definition of the term 'friend'. The Board, however, proposes that an alternative term such as "close personal associate" is needed.
16. There should be a reduction in the number of personal interests which need to be declared. The definition of personal interest should be amended so members need not declare an interest where it is merely something that they share with a wider community.
17. There should be greater support for the councillor's role as an advocate for their community. Interests which arise solely because a member serves on another public body, or is advocating on behalf of an outside body such as a charity or local pressure group, known as 'public service interests', should be treated differently from interests that arise as part of a member's private life.
18. There should be greater local discretion to grant dispensations. Government should consider giving local authorities broader powers to grant exemptions to members with prejudicial interests who nevertheless are speaking on behalf of their constituents.
19. The Board recommends that the employment details of members engaged in sensitive employment only need be declared in a private register rather than the public register of interest.
20. The Government should review and clarify the scope of the information which members are required to register under paragraph 15(c).
21. The Board propose that the threshold limit of £25 for the declaration of gifts and hospitality should be retained.
22. The board recommend that the register of gifts and hospitality should be made public.

### The Ten Nolan General Principles

1. **Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and Integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal Judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.
8. **Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
10. **Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.