

# Southend-on-Sea Borough Council

Report of Deputy Town Clerk & Monitoring Officer  
to

Standards Committee

on

20<sup>th</sup> February 2006

Report prepared by: J.K. Williams

Agenda  
Item No.

4

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## Standards of Conduct in English Local Government: The Future. Consultation Paper by Office for the Deputy Prime Minister

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A Part I Public Agenda Item

### 1. Purpose of Report

On 15 December 2005 the Office for the Deputy Prime Minister (ODPM) issued a Consultation Paper which sets out the Government's current views on the future of the conduct regime for Local Government in England (**Appendix 1**). This report summarises the content of the Consultation Paper and suggests a response.

### 2. Recommendation

That the content of the ODPM Consultation Paper be noted and the response at **Appendix 2** to the report be sent to the ODPM.

### 3. Background

3.1 The Consultation Paper provides a co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in Local Government and sets out proposals for the future. In particular, the Consultation Paper incorporates the Government's response to:

- Chapter 3 of the tenth report of the Committee on Standards in Public Life (Graham Committee) – Getting the Balance Right – Implementing Standards in Public Life – January 2005; and
- The Role and Effectiveness of the Standards Board for England – Report of the Parliamentary ODPM Select Committee – April 2005.

The Paper also sets out:

- Recommendations following consultation on the Code of Conduct for Members – by the Standards Board for England. (The Committee considered the Standards Board Consultation at its last meeting).
- Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – An ODPM Consultation Paper – August 2004
- A Model Code of Conduct for Local Government Employees – An ODPM Consultation Paper – August 2004.

3.2 Implementation of the Proposals in the Consultation Paper will require amendments to both primary and secondary legislation and the paper comments that following consultation on them, the final proposals will be introduced on a phased basis.

3.3 This Report provides an overview of the main issues in the Consultation Paper, ODPM proposals on them and where appropriate comments for the Committee's consideration. A draft response is attached at **Appendix 2**.

### 3.4 **Conduct of Council Members**

In the Consultation Paper, the Government agrees that the Code of Conduct should be amended along the lines suggested by the Standards Board for England including:

- 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.

The Consultation Paper also makes the following detailed proposals in respect of the Code of Conduct:

- a) Clarification that the Code covers bullying and unlawful discrimination.
- b) There will be public a interest defence for a Member who releases confidential information, in the light of the Freedom of Information Act.
- c) The general principles of Local Government conduct should be incorporated in the Code as a preamble to provide some context.
- d) Councillors who are on outside bodies or other public bodies should always be able to speak on issues that relate to that body, provided a public service interest is declared. However, if the public service interest is prejudicial, then before the vote is taken, the Councillor must leave the room.
- e) Councillors should be able to speak on behalf of Constituents, where a Councillor has a prejudicial interest, provided that the interest is declared and the Councillor leaves the room before the vote is taken.
- f) The requirement for Councillors to report breaches of the Code will be deleted.
- g) The scope of the Code will be reduced in relation to complaints against Members in respect of their private life. The Code will only apply to unlawful activities.
- h) The Code should continue not to define 'Friend'.
- i) Simplification of the rules about registration of interests is proposed.
- j) The Register of Hospitality will expressly be made public.

The existing Code of Conduct is not satisfactory and the amendments, in particular to lessen some of the harsher features, are welcome.

### 3.5 **Local Standards Committees and The Standards Board for England**

The Government intend to retain the current national framework for regulating standards of conduct in Local Government, but wish to move towards a more locally-based regime with local Standards Committees taking on the role of the initial assessment of all allegations of misconduct and the investigation and determination of most cases. The Standards Board for England would have a strategic role responsible for providing guidance on roles and responsibilities (including the handling of allegations) monitoring Standards Committees to ensure that they carry out their roles effectively and providing increased support and training. The Standards Board for England would only investigate the most serious allegations of misconduct. Standards Committees would be required to report to the Standards Board on how they had been undertaking their role, which could be done through the submission of annual reports, in a common format. In order to ensure public confidence in the system, the Government proposes to improve the independence of Standards Committees by requiring all chairmen to be independent members and committees to include independent members who reflect a balance of experience. However, the Government are not proposing that independent members form a majority on Standards Committees.

The Consultation Paper comments that these changes will provide an enhanced role for Standards Committees and for Monitoring Officers. The paper also comments that authorities will need to do more than at present to ensure that Monitoring Officers and Standards Committees are:

- Properly supported
- Are of the appropriate quality
- Are able to promote high standards of conduct throughout each authority, so that concern for conduct issues is embedded in every aspect of Councils' work.

The additional burden falling on Councils as a consequence of these proposals is of considerable concern, and it will be particularly difficult to find additional funding to support the role. However, more fundamentally, there is always going to be a great difficulty in getting the public to have confidence in a system which is not wholly independent.

The Consultation Paper does not go into detail about how the proposed changes would work in practice and what, for example, would be defined as serious breaches of the Code which would need to be dealt with by the Standards Board for England, or whether there would be any appeal process beyond the Standards Committee to the Board. The commitment of the ODPM and the Standards Board for England to set standards and to provide support to ensure consistency of approach across authorities, will be vital if the system is seen to be fair by Members and have credibility with the public

### 3.6 **Conduct of Local Government Employees**

- (a) The Consultation Paper covers three areas which relate to Local Government employees: review of political restrictions; political assistants pay; and a new Code of Conduct for Local Government employees. The Consultation Paper sets out the Government's proposals on these issues in the light of ODPM consultation on them in 2004, and the proposals generally seem to be reasonable.
- (b) In terms of political restrictions, the Consultation Paper states that the Government is committed to the principle of the political neutrality of Local Government employees. To ensure that this principle is retained, it is

proposed to retain the existing framework which restricts the political activities of certain staff. These restrictions are set out in legislation and cover the following:

- becoming an MP, MEP or a member of a local authority (other than a parish or community Council)
- candidature for public elected office (other than parish or community Council)
- holding any office in a political party
- canvassing at an election or writing or speaking publicly in a manner which appears to be designed to affect public support for a political party
- acting as an agent or sub-agent for a candidate for election.

However, amendments to the existing rules are proposed to ensure the restriction only applies to the most senior, or the most sensitive posts. Posts which are currently politically restricted fall into three categories:

- Designated senior posts identified within the Local Government and Housing Act 1989
- Posts over a salary level determined by the Secretary of State (currently scale point 44 - £33,984 per annum)
- Any post below that salary level, the duties of which involve giving advice to the Council, Cabinet, any committee or sub-committee on a regular basis or speaking on behalf of the authority to journalists or broadcasters on a regular basis.

Currently any employee who considers that their post should not be politically restricted can ask the Independent Adjudicator appointed by the Secretary of State to consider exempting the post from the restrictions. The Consultation Paper proposes that the post of Independent Adjudicator should be abolished and that his role in the making of decisions on applications for exemption from political restrictions should be delegated to Standards Committees.

- (c) Under Section 9 of the Local Government and Housing Act 1989, local authorities are able to appoint up to a maximum of three political assistant posts to support any designated political groups. The maximum salary levels of such posts are fixed and it is proposed to increase the maximum.
- (d) In terms of the Code of Conduct for Local Government Officers, ODPM had produced a draft which was broadly in line with the provisions of the Member's Code of Conduct, setting out standards of behaviour to be expected of employees. This was issued as part of the consultation process in 2004. The Consultation Paper comments that to ensure that such standards are defined effectively and consistently, the Government are minded to proceed with a Code of Conduct which all employees should follow. The Code would set out only general principles of conduct that authorities could then tailor to local circumstances. The Code should be incorporated into each employee's contract of employment. The Consultation Paper comments that the content of the Code of Conduct for Employees will be considered in the light of detailed amendments to the Member's code.

#### **4. Background Papers**

None.

#### **5. Appendices**

**Appendix 1** – ODPM Consultation Paper

**Appendix 2** – Draft response to ODPM