

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the Jeffery Room,
Guildhall on Tuesday, 11 July 2006 at 5:00 pm.

M. McLean
Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
- 5. POLITICAL STRUCTURES- CONSTITUTIONAL AMMENDMENTS- CONTRACT MONITORING
Report of Solicitor to the Council (copy herewith) F. Fernandes x 7334
- 6. ODPM REPORT
Report of Solicitor to the Council (copy herewith) J. Inch x 7335
7. NEWSLETTER
Report of Solicitor to the Council (copy to follow) J. Buckler x 7341
- 8. DRAFT WORK PLAN FOR STANDARDS COMMITTEE
Report of Solicitor to the Council (copy herewith) F. Fernandes x 7334
- 9. LOCAL DETERMINATION HEARING PANEL
Report of Solicitor to the Council (copy herewith) J. Inch x 7335
10. TRAINING
Report of Corporate Manager (Legal and Democratic Services) (copy to follow) E. Yeshin x 7431
11. ETHICAL GOVERNANCE TOOLKIT
Solicitor to the Council to report J. Buckler x 7341
12. NEW INDEPENDENT MEMBERSHIP
Solicitor to the Council to report F. Fernandes x 7334
- 13. CLLR BOSS
Report of Solicitor to the Council (copy herewith) F. Fernandes x 7334
14. EXCLUSION OF PUBLIC AND PRESS

THE CHAIR TO MOVE:

“THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT.”

SUPPLEMENTARY AGENDA

**Exempted Under Schedule
12A of L.Govt Act 1972
Para No:-**

<TRAILER_SECTION>
A4683



**NORTHAMPTON
BOROUGH COUNCIL**

STANDARDS COMMITTEE

3 July 2006

ITEM NO:

5

Report of Solicitor to the Council

Directorate: Finance Governance and
Citizens

Author/Contact Officer:
Francis Fernandes (Ext 7334)
Solicitor to the Council

**POLITICAL STRUCTURES –
CONSTITUTIONAL AMENDMENTS –
CONTRACT MONITORING**

Recommendation(s)

1. That the Committee notes the Report.
2. That the Committee agrees to a new standing item termed "Contract Issues" In all reports.

1. BACKGROUND

- 1.1 As part of Northampton Borough Council's recovery effort, major changes to its political structures and governance arrangements were agreed by full Council at its meeting on 21 July 2005. The Council's governance arrangements and decision-making processes, following on from that report, are illustrated in Appendix 1.
- 1.2 In September 2005, the new governance arrangements were implemented through changes in the Council's Constitution. The introduction of new governance bodies has increased the complexity of decision-making and further increased the potential of conflicts of interest between the various bodies. Of particular interest to the Council has been the need to focus the decision-making on improvement and recovery.
- 1.3 In order to aid this, the constitutional changes introduced the concept of a "contract". The Council cannot, of course, contract with itself. However, given the challenges of the new governance arrangements, what has been styled a contract outlines how the various bodies and individual Councillors are expected to interact with each other and ultimately defines the standard of

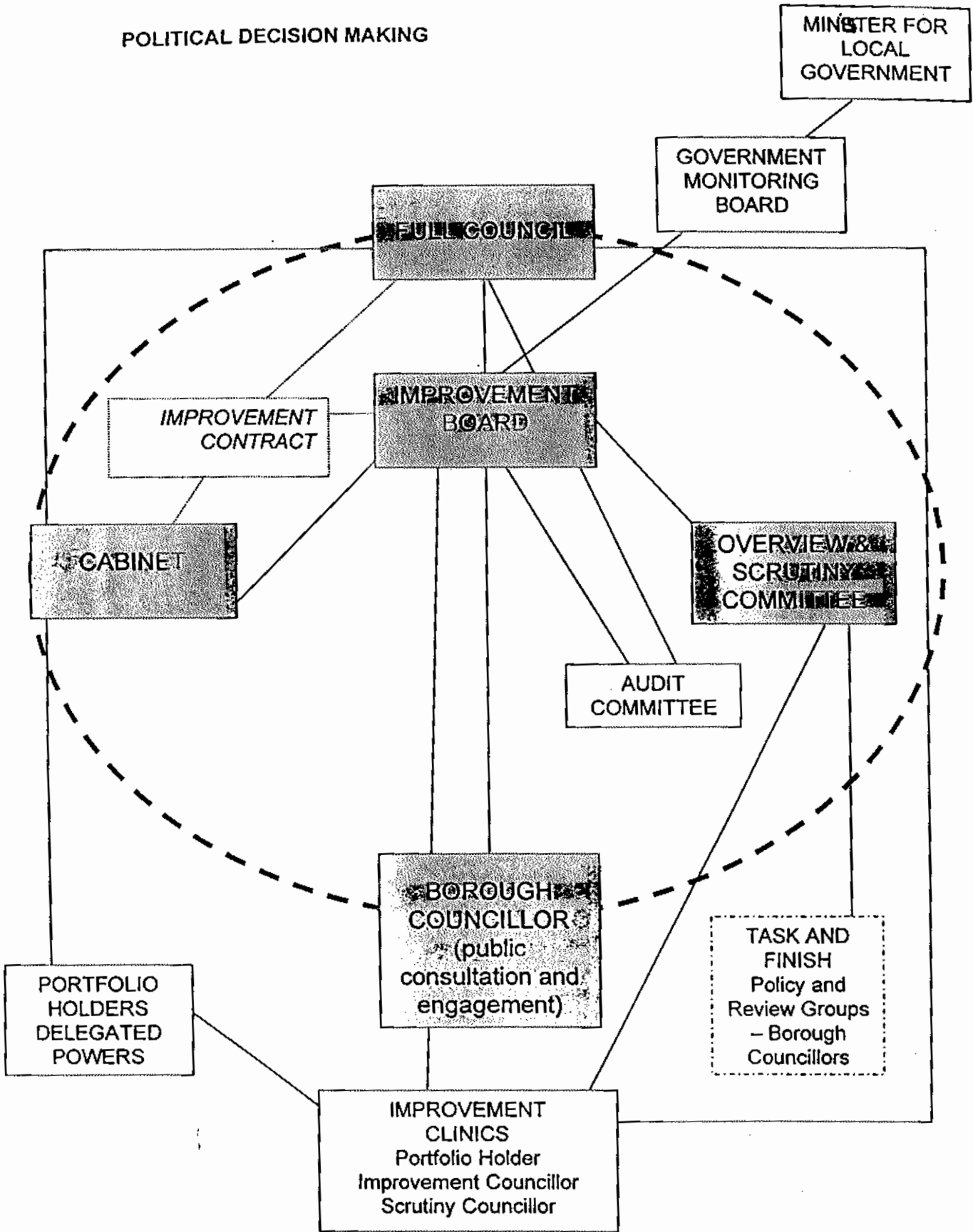
behaviour required of Councillors. A copy of the contract can be found at Appendix 2 of this report.

- 1.4 As can be seen from Appendix 2, there are clear dispute resolution mechanisms to resolve conflicts between the various decision-making bodies. There are also specific behaviours required of individual Councillors in relation to their support of the various new structures. Of particular importance is the requirement for Councillors to adhere to the letter and the spirit of the Nolan Committee's Seven Principles of Public Life.
- 1.5 Given the fact that the contract cannot be formally enforced, amendments to the Constitution have been made to enable the Standards Committee to formally monitor adherence to the contract. The Standards Committee's Terms of Reference in the Constitution had been amended to allow this to happen.
- 1.6 As far as the practical impact on the Standards Committee is concerned, disputes between the decision-making bodies or behaviours of Councillors that do not support the recovery and improvement agenda by breaching the "contract" can be referred to the Standards Committee for consideration.
- 1.7 The Standards Committee does not have formal sanction powers, however, if there are matters of concern, the Standards Committee will be able to report these to full Council.
- 1.8 To date, there have been no formal references to the Standards Committee, but standard item on the Standards Committee agenda will specify "contract issues". Matters will be referred to the Committee under this heading as appropriate.

2. BACKGROUND PAPERS

- 2.1 Council report 21 July 2005.
- 2.2 Council report 29 September 2005.

POLITICAL DECISION MAKING



INCLUSION IN PART 5 OF THE CONSTITUTION

THIS IS THE "CONTRACT" between Northampton Borough Council ("the Council"), Cabinet, Overview and Scrutiny Committee and the Improvement Board ("the Board") which the Council has established

1. Background

- 1.1 A comprehensive Performance Assessment carried out by the Audit Commission and published in March 2004 accorded the Council a rating of poor, and a subsequent assessment by the Audit Commission published in June 2005 described the Council's progress in achieving improvement as slow.
- 1.2 The Council recognises the need to take urgent and decisive steps to improve its performance

2. Purpose of the Improvement Board

The purpose of the Improvement Board is to oversee and manage the implementation of all measures necessary to achieve improvement, meet targets and priorities and satisfy the Audit Commission and the Secretary of State that the Council is performing to an acceptable level

3. Commitment to the Improvement Board

The Council as a body together with its Leader and Cabinet, its Committees and all its members hereby states its commitment to supporting and facilitating the work of the Board in achieving the purpose above stated

4. Composition of the Improvement Board

4.1 The Board's membership will be as follows:-

4.1.1 *Council Members of the Board*

The Leader of the Council
Deputy Leader
The leader and deputy leader from each of the 2 main opposition parties
Substitute members (appointed by full Council).

4.1.2 *Co-opted Members of the Improvement Board*

Shall be appointed by the Board

4.2 Only the Council Members in 4.1.1 above will have a vote

The following Officers will attend the Board:-

The Chief Executive, who will manage the meeting and will exercise delegated powers.

The three Corporate Directors

The Section 151 Officer

The Monitoring Officer

5. Meetings of the Improvement Board

The Board will meet once a fortnight provided that if after a period it appears that less frequent meetings are required in order to continue achieving the Board's purpose then the frequency of the meetings may be reduced to one a month. Additional meetings may be held if required.

6. Procedure Rules

Except where the Council's constitution otherwise provides all the usual rules and procedures relating to Council Committees shall apply to the Improvement Board including in particular those relating to Access to Information and Open Government

7. Remit of the Improvement Board

- 7.1 The Board may consider all aspects of the Council's performance in delivering services and carrying out its functions, insofar as they relate to the recovery/improvement agenda and the remit specified in the constitution.
- 7.2 The Board may consider what should be included in the Council's Forward Plan
- 7.3 The Board will not seek to influence decisions to be taken by the Planning Committee, the Licensing Committee or any other Committee carrying out regulatory or quasi judicial functions
- 7.4 The Board may suggest matters which the Overview and Scrutiny Committee should include in their programme of work and if the Board does so the Overview and Scrutiny Committee should take on such suggestions and afford the matter concerned appropriate priority.

8. Relationship with the Cabinet

The establishment of the Improvement Board is not in any way intended to derogate from the responsibility of the Cabinet for the functions of the Council for which the Cabinet is responsible as the Council's Executive under the Local Government Act 2000. However in discharging those functions (whether through the full Cabinet or through the Leader or individual Cabinet member or through an officer) regard shall be taken of any recommendation made by the Improvement Board.

9. Relationship with Government Monitoring Board ("GMB")

The Improvement Board will respond to the direction provided by the GMB. Unlike that body the Improvement Board will be part of the Council's Committee and management structure. The Improvement Board will continue notwithstanding any future cessation of the GMB.

10. Liaison with the Office of the Deputy Prime Minister ("ODPM") and Audit Commission

The Improvement Board will be the principal contact at Member level for liaison with the ODPM and Audit Commission on matters relating to the Council's recovery process.

11. Disputes

Any dispute as to the effect or interpretation of this Contract should be resolved by using the dispute resolution procedure in the constitution.

12. Behaviours

All Councillors should recognise the need, urgency and importance of supporting the Improvement Board and should in all dealings with it act in a positive and constructive manner. In addition all Councillors should adhere to the letter and the spirit of the Nolan Committees recommendations which are:-

SEVEN PRINCIPLES OF PUBLIC LIFE

1 Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

2 Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5 Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6 Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7 Leadership

Holders of public office should promote and support these principles by leadership and example.

13. Status of the Contract

Notwithstanding that it is styled as a contract this document is not intended to imply that the Improvement Board has any legal identity separate from the Council or that there is in existence a contract that can be enforced as such in law. The document is intended rather to set out working arrangements and to signify the commitment of the Council to achieving improvement/recovery. Consequently member engagement in Council processes shall be monitored regularly against the requirements of the contract by the Standards Committee. The Standards Committee shall use any of its powers to censure or otherwise comment on member conduct in relation to the Contract which can include making reports to full Council.



**NORTHAMPTON
BOROUGH COUNCIL**

STANDARDS COMMITTEE

11 July 2006

Item No.

Report of the Solicitor to the Council

Directorate:
Finance Governance & Citizens

Author/Contact Officer:
Jim Inch
Tel: 01604 837335

**ODPM REPORT
STANDARD OF CONDUCT IN
ENGLISH LOCAL GOVERNMENT –
THE FUTURE**

Recommendations

That the Report be noted.

Background

At the meeting on 10 January 2006 it was reported that a letter had been received from the Office of the Deputy Prime Minister that referred to a paper they had published by way of the Government's response to a number of other reports and papers, namely:

- Recommendations made by the Committee on Standards in Public Life (Graham Committee).
- Recommendations made by the ODPM Select Committee following its inquiry into the role and effectiveness of the Standards Board for England.
- Recommendations made by the Standards Board for England for changes in the Code of Conduct (which followed a consultation and review).
- A review of the regulatory framework governing the Political Activities of Local Government Employees (an ODPM Consultation Paper).
- A model Code of Conduct for Local Government Employees (an ODPM Consultation Paper).

This report is intended as a summary of the Paper.

Key Points

The main points on the Government's response are:

- That their vision is for the different elements of the conduct regime to work effectively together as an integrated whole.
- That there should be a more locally based decision-making process, with the Standards Board retaining a central, strategic and investigatory role.
- That there should be a revised Code of Conduct for Members.
- That there should be a Code of Conduct for Employees.
- That the rules about politically restricted posts be retained (perhaps with some amendments to ensure that they apply only to the most senior or most sensitive posts) but that the rules regarding political assistant posts be amended to replace the requirement for the Secretary of State's approval to increases in rates of pay with a system linked to the National Joint Council Spinal points.

More Locally Based Decisions

Standards Committees (which the Paper says should be at the heart of decision-making in the conduct regime) are already taking an increasing role in the determination of cases. At present, however, all allegations have to be made to the Standards Board for initial assessment. The Paper proposes that this should be changed so that initial assessment would be made by Standards Committees. Most investigations would also be carried out by Monitoring Officers and Standards Committees would make determinations in most cases. Only the most serious cases would be referred to the Standards Board for investigation.

The Paper also mentions the possibility of allowing local mediation or other intervention falling short of investigation, which might allow disagreements to be defused before they turn into full-blown allegations.

The Standards Board would retain its strategic and advisory role.

Standards Committee Make-up etc.

The Paper accepts a suggestion that all chairs of Standards committees should have to be independent members. However, it rejects a suggestion that Standards Committees should be required to have a majority of independent members.

The Paper says there might be value in Standards Committees sharing their experiences and expertise, and possibly joining forces in recruiting independent members, or in the provision of Monitoring Officer services. It does not go so far as to adopt the suggestion that Standards Committees should be able to combine into say country-wide committees. A statutory requirement may however be introduced to require Standards Committees to co-operate or even work jointly together.

The Paper states that authorities will need to do more than at present to ensure that Monitoring officers and Standards Committees are properly supported, are of

appropriate quality and are able to promote high standards of conduct, "so that concern for conduct issues is embedded in every aspect of Council's work".

Relationship to Standards Board

The Paper says that arrangements need to be put in place for Committees to report to the Standards Board on how they have been undertaking their role. This could be done through submission of annual reports, in a common format. The object would be for the Board to monitor performance.

With regard to investigations, Standards Committees would refer only the most serious cases for investigation by the Board. The Board would have power to refuse to take on referred cases if it believes they are better handled locally and that the authority merely wished to avoid dealing with the allegations.

The Paper itself gives little guidance as to what might be regarded as a sufficiently serious case for referral to the Board. However, mention is made of allegations of a particularly serious nature or cases that might have national significance or set an important precedent.

The Board would be given powers to withdraw an Authority's power to investigate cases in the event of poor performance.

Employees' Code of Conduct

The Paper says the Government is currently minded to issue a code of Conduct which all employees should follow. The intention, however, would be that the Code would set out only general principles of conduct and that authorities should "take ownership of the operation of those principles locally". The Code would be incorporated into each employee's contract of employment.

Revisions to the Councillor's Code of Conduct

The Government accepts the desirability of revising the Code of Conduct for Councillors in several respects, chiefly:-

- To incorporate the ten principles of public life as a preamble or annex to the Code.
- To add a specific provision to the Code to clarify that bullying behaviour constitutes a breach of the Code (at present there is only a provision about treating others with respect).
- To make "judicious relaxations" in the interest rules to support Councillors' advocacy role for their constituents and other public bodies on which they serve.
- To remove the duty on Councillors to report what they believe to be failures by other Councillors to comply with the Code. (This is primarily to reduce the number of trivial and vexatious complaints which has been a problem the Standards Board have experienced.)

- To make private conduct a breach of code only where the conduct is unlawful. (This was the Standards Board's recommendation. A recommendation by the Graham Committee that private conduct be removed from the Code altogether has not been accepted.)

The general object is to make the Code clearer, simpler and more proportionate.

Implementation

A number of the proposed changes will require primary legislation. Others can be effected by secondary legislation. The Government say that they will make the necessary legislative amendments when Parliamentary time allows.

In advance of the introduction of the revised regime, the Government wants the Standards Board to work closely with local authorities so that Standards Committees and Monitoring officers are properly supported.

Background Papers

ODPM Publication "Standards of Conduct in English Local Government: The Future"

ODPM Letter – 15 December 2005



NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

11 July 2006

Item No.

Report of the Solicitor to the Council

Directorate:
Finance Governance & Citizens

Author/Contact Officer:
Francis Fernandes
Solicitor to the Council
Tel: 01604 837334

DRAFT FORWARD WORK PLAN
- 2006/2007

Recommendations

That the Committee consider the draft Forward Work Plan for 2006/2007 and suggest any amendments or additions to the document.

Background

The Committee has not formally considered and agreed a Work Plan for the year 2005/2006. Attached at Appendix I is a suggested Work Plan for the remainder of the year.

After this meeting the Standards Committee will have four further meetings for the year with which to deliver the Work Plan.

Councillors are asked to consider the draft Work Plan and to consider whether any amendments should be made to it, and to further consider whether there are any additional items they would wish included in the Work Plan.

As soon as the Work Plan has been agreed, the work will be allocated to each of the four remaining meetings for this financial year.

DRAFT FORWARD WORK PLAN

2006-2007

1. Training for all Councillors on the Standards Committee on:
 - (i) Standards issues generally and
 - (ii) on the new regulations (when issued)
2. To agree work areas that need Monitoring Officer briefing papers to Councillors
3. Review of all the protocols in the Constitution and consideration as to whether there are further protocols that are needed
4. Review of "contract" issues – standing item at every meeting
5. Council representatives on outside bodies – develop a new code of practice to be included in the Constitution
6. Review of NBC's complaints procedure
7. Monitoring Officer's annual report of the work of the Standards Committee and complaints against Councillors
8. Standards Boards update – standing item at every meeting



**NORTHAMPTON
BOROUGH COUNCIL**

STANDARDS COMMITTEE

11 July 2006

Item No.

8

Report of the Solicitor to the Council

Directorate:
Finance Governance & Citizens

Author/Contact Officer:
Jim Inch
Tel: 01604 837335

REVIEW OF WORK 2005/2006

Recommendations

That the Report be noted.

Background

At the last meeting on the Committee asked for a Report on their work over the previous year. During 2005/2006 the Standards Committee considered the following matters:

- The Standards Board's consultation document on the Review of the Code of Conduct. The Committee agreed to make a number of comments to the Standards Board on issues raised by the Document.
- Guidance from LACORS (Local Authorities Coordinators of Regulatory Services) on the role of Elected Members in Relation to Licensing Committee Meetings under the Licensing Act 2003 and on the Conduct of such hearings.
- A report of the Monitoring Officer on the implications of the Court of Appeal's decision in the Richardson Case.
- Regular updates/bulletins issued by the Standards Board.

In December 2005 the Committee held their first Local Determination Hearing.

Changes to the Council's Constitution gave the Committee a new role of monitoring the "Contract" which sets out the Commitment of the Council and all Councillors to

the work of the Improvement Board. The Committee have added a standing item to their agenda regarding this.

The Chair attended the Fourth Annual Assembly of Standards Committees in Birmingham on 5-6 September 2005 and submitted a report to the Committee.

Background Papers

Previous Committee Reports and Minutes



**NORTHAMPTON
BOROUGH COUNCIL**

STANDARDS COMMITTEE

11 July 2006

Item No.

Report of the Solicitor to the Council

Directorate:

Finance Governance & Citizens

Author/Contact Officer:

Jim Inch

Tel: 01604 837335

**LOCAL DETERMINATION
HEARINGS PANEL**

Recommendations

1. That the Committee appoints a Sub-Committee pursuant to Section 54A of the Local Government Act 2000 for the purpose of conducting hearings into allegations of failure to comply with the Code of Conduct, which fall to be determined locally by the Standards Committee.
2. That this Sub-Committee be known as the Local Determination Hearings Panel.
3. That the Local Determination Hearings Panel have all the powers of the Standards Committee in relation to the conduct of hearings, the making of determinations (including reference back to the Ethical Standards Officer) and the imposition of penalties.
4. That the Panel be made up of five members of the Standards Committee of whom at least one shall be an independent member.
5. That for any hearing either all 5 members shall be present, or 3 of them (of which at least one shall be an independent member), with the expectation that most hearings will be heard by 3 member panels.

Background

The Local Government Act 2000 originally made no provision for Standards Committees to have Sub-Committees. However amendments made by Local Government Act 2003 now permit them to do so.

The Regulations made under the 2000 Act provide for Standards Committees to conduct Hearings in certain circumstances, namely

1. When an Ethical Standards Officer (of the Standards Board for England) has carried out an investigation and decides to refer his/her report to the Council's Monitoring Officer to arrange a local determination.
2. When the Ethical Standards Officer has referred an allegation to the Council's Monitoring Officer for local investigation and the Monitoring Officer in his/her report is of the opinion that the Code of Conduct has been breached.
3. When there has been a local investigation as in 2 above, and the monitoring officer has concluded there has not been a breach of the code; but the Standards Committee when considering the Monitoring Officer's Report decide nevertheless that there is a case to answer.

If Hearings are held by the full Committee then all the members are entitled to attend. This makes arranging hearings more difficult, and conducting them potentially more cumbersome and intimidating. It is therefore recommended that a Panel be set up, which will be a Sub-Committee of the Standards Committee, to conduct hearings.

The details proposed for the Hearings Panel contained in the recommendations above take into account the current Guidance issued by the Standards Board. That Guidance has not yet been updated following the 2003 Act (referring to the change to allow for Sub-Committees only as a proposal). However it is not that expected revisions to the Guidance will affect the position significantly.

Background Papers

Standards Board for England Publications:
Standards Committee Determinations
Local Investigations

Local Government Acts 2000 and 2003

Local Authorities (Code of Conduct)(Local Determination) Regulations 2003

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Case ID: SBE13746 06
 The following case summaries concern members of the selected authority. The most recent cases are displayed first.
 Member: Councillor Michael Boss

Authority: Northampton Borough Council**Date received:** 09 Jan 2006**Date completed:** 09 May 2006

Allegation: A member failed to declare a personal interest and failed to withdraw from a meeting when a matter in which he had a prejudicial interest was discussed.

SBE outcome: The Ethical Standards Officer found no evidence of any failure to comply with the Code of Conduct.

The complainant alleged that Councillor Michael Boss failed to declare a personal and prejudicial interest in a planning application at a Northampton Borough Council planning committee meeting on 2 November 2005, and failed to leave the room.

The complainant alleged that Councillor Boss was a friend of the applicant. The Ethical Standards Officer also considered whether Councillor Boss had a personal interest because of where the proposed development site was in relation to his home.

Councillor Boss said he had attended a function in honour of the applicant's mother in his capacity as Mayor of the council between 2001 and 2002, but had not been in touch with the applicant or her mother since the function. Councillor Boss did not think the application would affect him more than anyone else.

The Ethical Standards Officer concluded that there was no evidence that Councillor Boss was a friend of the applicant or the applicant's mother. The Ethical Standards Officer also concluded that Councillor Boss did not have a personal interest on the basis of where he lived in relation to the development site.

The Ethical Standards Officer found that there was no evidence of any failure to comply with the Code of Conduct.

Relevant Paragraphs of the Code of Conduct

interest in any matter must "withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting".

[Back to authorities](#)