



**Report of : Director of Corporate Resources**

<b>Meeting of</b>	<b>Date</b>	<b>Agenda Item</b>	<b>Ward(s)</b>
Standards Committee	14 January 2008	6	

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**Subject: LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT - IMPLICATIONS FOR STANDARDS COMMITTEES**

**1. Synopsis**

The Local Government and Public Involvement in Health Act received royal assent in October. The Act includes a number of provisions which affect the Standards Committee and these are also considered in this report. The most significant change is the introduction of a new system for dealing with complaints about breaches of the members code of conduct. In the new system all complaints will initially go to individual local authorities rather than to the Standards Board for England (SBE) and the Standards Committee rather than the Standards Board will decide which should be investigated. This is referred to in this report as the local filter. This report explains the new process in so far as details are currently available and proposes training for members and officers in the new process.

**2. Recommendation**

- 2.1 That members note the contents of this report and approve the proposed approach to training for officers and members set out in paragraph 3.9.

### **3. Background Details**

#### **The local filter**

- 3.1** In the existing system complaints alleging misconduct by Members must be directed, in the first instance, to the Standards Board for England (SBE), who undertake an initial sifting of complaints to decide whether or not to refer them for investigation, either by one of their own Ethical Standards Officers (ESO) or to the relevant local Monitoring Officer.
- 3.2** The initial decision is undertaken by an individual officer who considers the information supplied by the complainant and makes an assessment based on a number of criteria. The criteria include matters such as whether the information, if true, would constitute a breach and whether, although technically a breach, it would not be in the public interest to investigate because it is too trivial. This process currently takes around 9 days and where complaints are rejected the complainant, the member complained about and the Monitoring Officer are informed by the SBE, but other than that, the matter is not publicised. Where the decision is taken to refer a complaint for investigation then a further decision is necessary as to whether that investigation should be undertaken by an ESO, or by the relevant Monitoring Officer.
- 3.3** Under the new system, which is expected to apply from April 2008, all complaints about breaches of the members code of conduct will be, in the first instance, directed to the Monitoring Officer, rather than the SBE. The Monitoring Officer will then be required to report the complaint, without delay, to the Standards Committee or a Sub-Committee of it. The committee will undertake the initial filter instead of the SBE and, based on the strength of the information submitted, decide whether to refer the complaint for investigation or reject it.
- 3.4** Standards Committees will be required to undertake a review of a filter decision if a complainant seeks a review within 30 days because their complaint has been rejected. Standards Committees will continue to have their existing role in dealing with complaints which it is appropriate to deal with locally.

#### **Implications of the local filter**

- 3.5** The local filter will mean more work for the Standards Committee and for the Monitoring Officer. Although detailed regulations have not yet been issued it is anticipated that members who undertook the initial filter will not be able to take part in a substantive hearing of that complaint. It is considered on the basis of pilots that have been run by the SBE that there will be an increase in the percentage of complaints received which are subsequently referred. Some authorities have taken the view that in order to manage the new workload they need to

expand the membership of their Standards Committee to enable the establishment of a number of sub-committees. Others are considering establishing joint committees with other authorities in order that the workload can be shared.

- 3.6** In Islington's case the number of complaints made (20 since 2002) and the number then referred for investigation (5 since 2002) are very low. Even allowing for a quite significant increase in these numbers it is not considered necessary at this point to either expand the committee membership further or to investigate any joint arrangements with other boroughs. However, it is proposed that the Standards Committee establish two sub-committees, of three members each, to ensure that the requirement for involvement of different members at different stages of the process for dealing with complaints can be satisfied.
- 3.7** The work of the Monitoring Officer will increase as she will need to prepare a report to the committee in respect of every relevant complaint received. If it is the case, as anticipated, that more cases are referred for investigation under the new arrangements this will also create additional work for the Monitoring Officer and other officers. It is currently anticipated that it will generally be possible to manage the work required without additional resources, although it may be necessary to arrange for external support on an ad hoc in respect of particular cases.

#### **Local filter procedure**

- 3.8** Appendix 1 contains a copy of a flow chart produced by the SBE as part of its piloting of the new arrangements. As regulations are expected to give more details about how the filter process should be undertaken it is not possible to put forward a procedure for formal adoption by the committee at this meeting. It is anticipated this will be done at the meeting taking place in March prior to the expected date of the new arrangements coming into effect.

#### **Training for members on the local filter**

- 3.9** It is proposed that training on the new process take place on the same evening as the scheduled March meeting of the Standards Committee in the form of a role play. It is anticipated that the regulations will have been issued sufficiently in advance of that meeting for a detailed procedure to have been drafted which the committee can try out in the training before considering and adopting it, with any amendments, in the formal part of the meeting.

#### **Communicating the changes**

- 3.10** The information currently contained on the council's website concerning complaints about members conduct will need to be updated to reflect the changed arrangements. The SBE intends to produce

template notices for authorities to publicise their complaints process and an information leaflet can also be produced.

### **Other main changes contained in the Act**

**3.11 The Code of Conduct** The Act amends the Local Government Act 2000 to enable the Members Code of Conduct to cover conduct in a private capacity if it would constitute a criminal offence. This provision is designed to enable effect to be given to the existing provisions in the Code that:

- intimidating a complainant or witness in relation to any allegation of a breach of the Code
- bringing their office or authority into disrepute or
- improperly secure or attempt to secure an advantage or disadvantage for themselves or another person in their private life

is a breach of the Code even when the Member is not acting in an official capacity if the conduct involved includes a criminal offence for which the member is convicted.

**3.12 Politically restricted posts:** The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a Member of a Local Authority and can undertake only limited political activities if he or she holds a politically restricted post. Politically restricted posts are Chief Officers, Deputy Chief Officers, officers remunerated above a particular level or officers who regularly give advice at Council meetings or are responsible for providing information to journalists and broadcasters. Officers other than Chief Officers and Deputy Chief Officers who hold politically restricted posts can apply for an exemption from this political restriction. Currently the granting and supervision of exemptions is the responsibility of the Independent Adjudicator appointed by the Government. The Act makes this function the responsibility of the Standards Committee. The Committee would hear applications that a particular post should be removed from the list of posts which are politically restricted. It is not expected that this will result in significant additional work for the Committee as it is likely there will be very few such applications.

**3.13 Referral to the Adjudication panel:** In cases where the Committee is making a local determination following the investigation of a complaint, it will be able to refer the matter directly to the Adjudication Panel for England if it considers that its sanctions are not sufficient to deal with it.

**3.14 Chairing the Standards Committee:** The Act will require the appointed Chair of the Standards Committee to be one of the Independent Members of the Committee which is our current practice. If the Independent Chair is absent from a meeting it can be chaired by a person who is not an Independent Member of the Committee. It is

expected that regulations will require sub-committee to be chaired by an independent member as well.

## **4. Implications**

### **4.1 Legal Implications**

These are contained in the body of the report

### **4.2 Financial Implications**

There are no financial implications arising directly from this report.

### **4.3 Equality Implications**

The introduction of the new process is a statutory requirement. An equalities impact assessment will be undertaken of the new procedure to be drafted.

### **Background papers:**

None.

Final Report Clearance

Signed by

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Director of Corporate Resources

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Date

Received by

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Head of Scrutiny and Democratic Services

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Date

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APPENDIX 1

**Local Filter Pilot Complaint Handling Chart**

Sixth Annual Assembly of Standards Committees 15-16 October 2007, ICC, Birmingham

