

Report of : Director of Corporate Resources

Meeting of	Date	Agenda Item	Ward(s)
Standards Committee	17 June 2008	6	

Delete appropriate	as	Exempt	Non-exempt
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Appointment of Sub-Committees

1 Synopsis

From 8th of May onwards a complaint of misconduct by a member has to be submitted to the Standards Committee rather than to the Standards Board for England. Members have already received reports concerning this change. This report asks the Committee to establish sub-committees to enable it to comply with its statutory obligations.

2 Recommendations

- 2.1 That the Committee establish an Initial Assessment Sub-Committee and a Review Sub-Committee with terms of reference as set out in Appendix 1.
- 2.2 That the Committee appoint from its own membership two independent members (plus 4 named independent member alternates) and one councillor member (plus three named alternates) to each of these sub-committees.

3 Background

- 3.1 Members will be aware from previous reports that the committee is now given three separate functions in relation to a complaint about a member's conduct:
 - a) Initial assessment of the complaint - The Committee must decide whether to refer to the complaint to the Monitoring Officer for investigation or other action, refer the complaint to the Standards Board for England or not to investigate the complaint.

- b) Review of any decision not to investigate - Where the initial assessment is that the complaint should not be investigated then the person who submitted the complaint may ask for a review of the decision not to investigate. The Committee will then be required to make a fresh assessment of the complaint.
- c) Substantive hearing into the complaint - The Committee will be required to act as a quasi judicial body and decide whether there was a breach of the Code of Conduct and if so what the appropriate sanction is.

The Government originally indicated that the new functions would be taken on in April 2008 but in the event the functions have become effective from 8th May 2008.

Proposed Sub-Committees

- 3.2 The Regulations require the Standards Committee to establish a sub-committee to deal with the initial assessment of complaints and a sub-committee to deal with any review that may be requested of that initial assessment decision. The legislation as drafted appears to require that these be two separate sub-committees with fixed functions rather than it being possible to allocate both functions to each committee.
- 3.3 The roles of the two sub-committees are as follows. One (which it is proposed is called the "Initial Assessment Sub-Committee") will be required to undertake the initial assessment of any complaint received and decide whether it shows an apparent failure to comply with the Code of Conduct for Members. If so, the sub-committee will decide whether that complaint merits investigation or other action. The Regulations provide that other this action may be conciliation, training for the member or such other actions that seems appropriate. The sub-committee must consult with the Monitoring Officer before making a decision that other action should be taken.
- 3.4 If the Sub-Committee decides to take no action in respect of an allegation, the complainant will have 30 days within which to request the authority to review that decision. Undertaking such a review will be the role of the second sub-committee (which it is proposed is called the "Review Sub-Committee"). As anticipated from the consultation document, no member can sit on the Review Sub-Committee in respect of a complaint where they were on the Initial Assessment Sub-Committee for the initial assessment of the same complaint. The proposed terms of reference for these sub-committees are contained in Appendix 1.
- 3.5 If the complaint is referred for investigation and the investigating officer concludes that there has been a failure to comply with the Code of Conduct for Members, a hearing would then be held. The Standards Board recommends that such hearings should be held before a Sub-

Committee (a “Hearings Panel”) of between 3 and 5 members. An alternative to having a third sub-committee is to hold the hearing before the full Standards Committee. Occasionally members who had been involved in the initial assessment or review might be precluded from participating in an eventual hearing before the Standards Committee due to a conflict of interest. However, as the meetings of the proposed sub-committees would each only involve 3 members it would still be possible for the Standards Committee to be quorate for the hearing. It is therefore considered that the establishment of a separate Hearings Sub-Committee is unnecessary.

Membership of the Sub-Committees

- 3.6 The quorum for each Sub-Committee is required to be 3 members and each must include at least one councillor member and be chaired by an independent member. Members and substitutes members of the sub-committees must also be either members or substitute members of the Standards Committee itself.
- 3.7 It is proposed that all members of the Standards Committee be appointed to each of the sub-committees, either as members or substitute members. This will have the effect of creating pool of members from which those to attend particular meetings can be drawn and will provide the flexibility to fix meeting dates within the timescales recommended in the guidance.
- 3.7 It is therefore recommended that the Standards Committee appoint a Initial Assessment Sub-Committee and a Review Sub-Committee, with the terms of reference set out in Appendix 1, each consisting of two independent members (plus 4 named independent member substitutes) and one councillor member (plus three named substitutes). The members and substitutes must also be either members or substitutes members of the Standards Committee itself.

Access to meetings and Papers

- 3.8 Under the Regulations the access to information rules that apply to other council committee meetings are disapplied in the case of meetings to carry out an initial assessment or a review of an assessment. This means it is not necessary to give the 5 days notice that is usually required for meetings. Nor is it necessary to publish copies of papers to be considered by the Committee or the minutes of the meeting. Instead, a written summary must be produced (and made available to the public for 6 years) of the sub-committees considerations, recording the main points considered and its conclusion and the reasons for that conclusion. The summary must be produced having regard to Standard Board guidance and may give the name of the member concerned unless it would not be in the public interest to do so.

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

There are no equality implications arising from this report.

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 Democratic Services

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Date

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Appendix One

Proposed Terms of Reference of Standards Sub-Committees

Initial Assessment Sub-Committee

Composition

The Initial Assessment Sub-Committee shall comprise 3 members, of whom two shall be independent members of the Standards Committee (one of whom shall chair the Sub-Committee) and one an elected member of the authority.

Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members

Terms of Reference

1. To receive allegations that a member of the Council has failed, or may have failed, to comply with the Council's Members' Code of Conduct.
2. To make an initial assessment in accordance with the Initial Assessment of Complaints Procedure of any allegation received and to:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations; or
 - ii. refer the allegation to the Standards Board for England; or
 - iii. decide that no action should be taken in respect of the allegation; or
 - iv. where the allegation is in respect of a person who is no longer a member of the Council but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority.

Review Sub-Committee

Composition

The Review Sub-Committee shall comprise 3 members, of whom two shall be independent members of the Standards Committee (one of whom shall chair the Sub-Committee) and one an elected member of the authority.

Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members

Terms of Reference

1. To review, upon the request of a person who has made an allegation that a member of the Council has failed, or may have failed, to comply with the Council's Members' Code of Conduct, a decision of the Initial Assessment Sub-Committee that no action be taken in respect of that allegation.
2. To determine as a result of the review whether to:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations; or
 - ii. refer the allegation to the Standards Board for England; or
 - iii. decide that no action should be taken in respect of the allegation; or
 - iv. where the allegation is in respect of a person who is no longer a member of the authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority.