

STANDARDS COMMITTEE MINUTES -7 FEBRUARY 2008

Present: Councillor Hanley (in the Chair);
Councillors Beard (in place of Councillor Green), Byrne, Hanley,
Skeats, Tickner; Mr J Hicks and Reverend B Shenton.

Apologies: Councillors T Jones, Green and Maskell; and Mrs A Lee.

RESOLVED ITEMS

3. MINUTES

The Minutes of the meeting held on 17 July 2007 were confirmed as a correct record and signed by the Chair.

4. STANDARDS COMMITTEE - LOCAL INVESTIGATION

The Head of Central Administration and Monitoring Officer, submitted a report briefing the Committee on the arrangements for implementing the new framework for local investigations which would come into effect in April 2008, following the expected issue, by the Government, of Regulations implementing Part 10 of the Local Government and Public Involvement in Health Act 2007. The Committee was asked to consider making a response to the Government's Consultation Paper on Orders and Regulations Relating to the Conduct of Local Authority Members in England, which had been received from the Department of Communities and Local Government (DCLG) on 18 January 2008, with a closing date for comments of 15 February 2008 and had been previously circulated to Committee members on 24 January 2008. The report also asked the Committee to consider a checklist for implementing the locally-managed standards framework, as issued by the Standards Board for England, which was attached to the report at **Appendix A**.

The report stated that the Committee had already adopted local procedures for both local investigations and local determination. In investigating and determining cases, the test that must be applied by the Committee, the Standards Board and the National Adjudication Panel, was whether there had been a breach of the Code of Conduct for Members. Under the new arrangements, allegations made about Members would no longer be made directly to the Standards Board. Instead they would be made to the local authority concerned. At present the Standards Board undertook an initial assessment of all complaints received, which acted as a filter: between 1 April and 31 October 2007, 86% of all complaints received by the Standards Board were filtered out and no further action was taken.

The Consultation Paper made three basic points about the exercise:

- The initial assessment of allegations by local Standards Committees would not be a public process;
- If the Committee considered the allegation indicated a *prima facie* breach of the Code of Conduct, it may refer the allegation to the Monitoring Officer to investigate under the investigatory procedure;

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- If the Committee decided to take no further action (ie not to refer the allegation for investigation), the person making the allegation would have a right of complaint to the Committee about the decision.

The consequence of the above was that the Committee, in considering any allegation made to it, may potentially be involved in an allegation at four different stages:

- At the initial assessment;
- If the initial assessment was not to take any further action, and a complaint was received;
- If the initial assessment was to refer for investigation, to receive the results of the investigation and to consider whether a hearing was necessary - and if so:
- To hear the allegation.

This would raise concerns about Committee Members not prejudicing their own position with regard to the different stages, and a consequent view that the Committee should be large enough to allow the formation of separate sub-committees to deal with different stages of the allegation, with specific separations being made between the following processes:

- Initial investigation;
- Complaints arising from initial investigation;
- Investigation and hearing.

The Committee currently had a membership of 10, of whom seven were Councillors, and three were independent Members (non-Councillors). In addition, there were four named substitute Councillor members. The minimum legal requirement was that the Committee should have three Members, but if the Committee was larger than this, at least a quarter should be independent Members. It is understood that from April 2008, the Government Regulations would require the Committee, and all of its Sub-Committees, to be chaired by an independent Member.

The Committee was advised that, since May 2005 the Standards Board had received 16 complaints about Reading Councillors, although 10 of these were by the same complainant and related to the same incident, so that in practice it had received six separate complaints only one of which was referred for local investigation.

The Committee considered the Government's Consultation proposals on the new Standards Committee powers and the Standards Board's monitoring role and the Standards Board's checklist for local authorities, which were set out in the report and raised operational issues and advice on good practice.

Resolved -

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- (1) That, in respect of the Department of Communities and Local Government consultation paper on Standards Committees, the following be noted:
 - (a) Standards Committee Members involved in the initial assessment should not be involved in any subsequent review of a decision to take no action but may take part in any subsequent determination hearing;
 - (b) each Standards Committee should publish a notice explaining where future misconduct allegations should be sent, and should continue to promote this information;
 - (c) the proposed timescale for making initial assessment decisions was 20 working days;
 - (d) each Standards Committee must provide a written summary of an allegation to the subject of the allegation, except in certain specified circumstances;
 - (e) each Standards Committee must give notice of its decisions under Sections 57A and 50 of Local Government Act 2000;
 - (f) a Standards Committee may specify that an allegation may be dealt with other than by investigation and the Monitoring Officers may implement sanctions under Section 75(2)(a) of 2000 Act;
 - (g) Monitoring Officers may refer allegations back to a Standards Committee for determination;
 - (h) a Standards Committee may refer matters to the Adjudication Panel for England for determination, following the receipt of the Monitoring Officer's report, and where the Standards Committee considered the breach of code merited a sanction greater than that available to the Committee or to avoid the possibility of allegations being heard twice, however, the Adjudication Panel may refuse to accept referral under certain circumstances;
 - (i) the proposed increase in the maximum sanction available to Standards Committees from 3 months to 6 months suspension / partial suspension;
 - (j) the composition rules for Standards Committee and its sub-committees were unchanged but a different Independent Member should be appointed as chair and a different independent member should chair each of the following stages:

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- Initial assessment;
 - Review of decision to take no action;
- (k) initial assessment meetings and any subsequent review of a decision to take no action should not be subject to Access to Information legislation, should be conducted in closed meetings, and should not be subject to the notice and publicity requirements under Part 5A of Local Government Act 1972;
- (l) the Standards Board may suspend a Standards Committee's function of undertaking the initial assessment of misconduct allegations under S57D of 2000 Act
- (m) the possibility of providing for the Standards Board or standards committees to charge for undertaking functions on behalf of a suspended Standards Committee;
- (n) each Standards Committee to decide which ethical regime would apply in its local area;
- (o) the arrangements for adjudications by case tribunals of the Adjudication Panel;
- (p) regulations would be amended to allow Standards Committees to grant dispensations to apply to Members having the right to vote, to avoid a political group losing its majority or gaining a majority which it would not otherwise have;
- (q) maximum pay for local authority political assistants would increased from spinal column point 41 (top of grade PO2) to spinal column point 49 (top of grade PO5);
- (2) That, in relation to the size, composition and operation of the Standards Committee, the following be approved:
- (a) appoint at least 10 Members, including at least 3 Independent Members for 2008/09 Municipal Year as well as continuing to name substitute Councillor members to the Committee;
 - (b) Members who carried out local assessments should not review their decisions;
 - (c) Members who carried out local assessments may be members of a sub-committee that heard and determined the allegation;
 - (d) all Standards Committee members (including named substitutes) to act as part of a pool of Members to be appointed by the Monitoring Officer to serve on sub-committees for different activities, as convenient, on an ad hoc basis;

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- (e) on each occasion a group of Members was called to meet by the Monitoring Officer it would be called a Sub-Committee, and would always be chaired by an independent Member;
- (f) all Committee Members (including named substitutes) must be fully trained on the Code of Conduct for Members and receive training on conducting a hearing and should have received sufficient training to the satisfaction of the Monitoring Officer prior to being appointed as a member of a sub-committee;
- (g) Independent Members to be trained in chairing meetings or be able to demonstrate to the satisfaction of the Monitoring Officer that they had the necessary experience to undertake the role of chair;
- (h) all new Members to receive induction training on the role of Committee.
- (i) the Standards Committee should develop local criteria on the types of issues to consider when assessing allegations in the light of the forthcoming national guidance to be issued by the Standards Board and as part of this consideration the Committee should clarify what sort of additional information it may be appropriate for a complainant to submit to support an appeal against a decision by a sub-committee to take no further action;
- (j) the Monitoring Officer should hold a pre-briefing with the independent chair, prepare a summary of the allegation, and highlight the potential breaches of the Code of Conduct for Members and allow sufficient case reading time for himself and the Sub-Committee;
- (k) the Monitoring Officer would receive and log all allegations on behalf of the Committee and produce a local leaflet on local assessments, in consultation with the Communications Team, to accompany the Council's Complaints Procedure, for issue to potential complainants, and to incorporate local assessment into the Complaints page of the Council's website.

(The meeting commenced at 6.30pm and closed at 7.40pm).

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