

**LOCAL ASSESSMENT OF CODE OF CONDUCT COMPLAINTS –
REQUIREMENTS OF THE NEW REGIME
(Report by the Director of Central Services and Monitoring Officer)**

1. INTRODUCTION

- 1.1 Members will be aware that the Standards Committee (England) Regulations 2008 came into force on 8th May 2008. The Regulations provide for the initial assessment of allegations of Member misconduct to be transferred from the Standards Board for England to local authority Standards Committees which will have to decide whether each allegation appears to disclose a breach of the Code of Conduct for Members and whether it merits investigation.

2. NEW FRAMEWORK – KEY CHANGES

- 2.1 In brief, the 2008 Regulations provide for –
- ◆ standards committees to establish a Referral (Assessment) Sub-Committee which will have responsibility for the initial assessment of allegations and determining whether a particular allegation should be investigated, and a Review Sub-Committee which will have responsibility for considering any requests from the complainant to review a decision of the Referrals (Assessment) Sub-Committee not to investigate a particular allegation;
 - ◆ undertaking an initial assessment within 20 working days of receipt of an allegation;
 - ◆ Standards Committees to be composed of at least 25% independent Members and to be chaired by an Independent Member; and
 - ◆ an increase in the maximum sanction available to Standards Committees from 3 months to 6 months suspension or partial suspension.
- 2.2 In addition, the Standards Board will be responsible for monitoring and ensuring the effectiveness of local arrangements, including supporting authorities which are experiencing difficulties and improving their performance. Standards Committees will have to report periodically to the Standards Board on their performance of these new functions.

3. NEW PROCEDURE: ESTABLISHING THE SUB-COMMITTEES

- 3.1 The establishment of the two new Sub-Committees is mandatory under the Regulations, as is the transfer of functions to them. The composition of the Sub-Committees is also closely defined, requiring a meeting of a Sub-Committee to be chaired by an Independent Member and for there to be at least three Members of the Sub-Committee present for the duration of the meeting, including at least one Member of the authority and at least one parish Member where the allegation relates to a parish councillor. The membership of the Referral (Assessment) Sub-Committee for a particular matter cannot overlap with that of the Review Sub-Committee when the latter considers the same matter.

- 3.2 The Sub-Committees must be established by the Standards Committee but nothing in the Regulations requires a sub-committee to have a fixed membership or chairmanship.
- 3.3 Although it is difficult to anticipate the scale of the workload arising from the new Regulations, the Council has recognised the importance of flexibility and to ease the burden which might be placed on the existing Parish Council representatives has, with effect from 14th May 2008, increased the membership of the Standards Committee to allow for the appointment of one additional town or parish councillor to represent town and parish councils in the District. The Cambridgeshire and Peterborough Association of Local Councils have been invited to nominate the additional Member.
- 3.4 To continue the theme of flexibility, it is suggested that the Committee only appoint a named (lead) Independent Member to chair each Sub-Committee and that the Director of Central Services and Monitoring Officer (or in his absence, the Head of Legal & Estates) be authorised, after consultation with the relevant lead Independent Member to convene meetings of the Sub-Committees when required drawing upon the existing Members of the Standards Committee always bearing in mind that membership of the Referrals (Assessment) Sub-Committee for a particular matter cannot overlap with that of a Review Sub-Committee when the latter considers the same matter.
- 3.5 Conscious of the need to establish a framework with sufficient flexibility to respond to the demands of the new regime and to populate the various sub-committees as and when they are required, it is also considered that the terms of reference for each sub-committee should allow for a substitute Independent Member to take the place of the Independent Chairman, in the event of their inability to attend meetings on any occasion.
- 3.6 The new Regulations provide that information presented to the Referrals (Assessment) Sub Committee or to a Review Sub Committee shall be 'exempt information' for the purpose of Schedule 12A to the Local Government Act 1972, thus giving each of the Sub-Committees a power to exclude the press and public from their meetings. As this is a discretion, it will still be necessary for each meeting to resolve whether to exclude the press and public.
- 3.7 **Accordingly, it is recommended that –**
- ◆ **the Committee establish and appoint a Referrals (Assessment) Sub-Committee comprising one Independent Member, one Parish Council representative and one District Councillor;**
 - ◆ **that the Committee establish and appoint a Review Sub-Committee comprising one Independent Member, one Parish Council representative and one District Councillor;**
 - ◆ **that dates for monthly meetings of the Referrals (Assessment) Sub-Committee be established for a six-month period until December 2008 given the difficulty in assessing the workload**

which is likely to arise from the new Regulations and the timescales to which the Sub-Committee would be expected to work;

- ◆ that the Director of Central Services and Monitoring Officer (and in his absence, the Head of Legal & Estates and Deputy Monitoring Officer) be authorised, after consultation with the relevant Chairman to convene meetings of the Referrals (Assessment) and Review Sub-Committees as necessary;
- ◆ that the Referrals (Assessment) and Review Sub Committees hold their meeting in private unless the relevant sub committee determine otherwise in the case under consideration; and
- ◆ that the proposed terms of reference for each Sub-Committee enclosed at Annexes A and B be approved.

4. APPOINTMENT OF ADDITIONAL INDEPENDENT MEMBER

- 4.1 Members will recall that Messrs Hall, Boothman and Lynch were appointed by the Council to serve on the Committee in May 2007 for a four-year term. Written applications for the office were submitted in response to a press advertisement.
- 4.2 The Panel appointed to interview candidates for the office considered that one of the unsuccessful applicants had the necessary attributes to be suitable and successful in the post of Independent Member in the event of the need to appoint an additional post. It is understood that the individual may still be available and that she has reaffirmed an interest in serving on the Committee. Although the Regulations are silent on the issue of any overlap with any hearing that might be necessary any duplication of membership could give rise to a perception of bias and to guard against this situation and again to build into the arrangement sufficient flexibility to respond when necessary, the Committee may wish to consider whether it would be appropriate to recommend to Council the appointment of additional Independent Member subject, of course, to preliminary consultation with the individual concerned.
- 4.3 **It is recommended that Council appoint an additional Independent Member to serve on the Standards Committee for the remainder of the current four-year term to May 2011.**

5. LOCAL HEARING ARRANGEMENTS

- 5.1 The process for the consideration of the Monitoring Officer's report following investigation is similar to that previously adopted by the District Council for allegations which had been investigated locally. Whether a report concludes that there has or has not been a failure to observe the code of conduct, the Monitoring Officer is required to report to the Standards Committee which then decides whether to accept the Monitoring Officer's conclusion and close the matter, or refer the matter for a formal hearing.
- 5.2 At their meeting held on 17th December 2003, and in their consideration of a draft procedure for the local investigation and determination of allegations against Councillors, the Committee

resolved to authorise the Executive Director of Central Services, after consultation with the Chairman of the Committee, to administer the pre-hearing process and to convene and to appoint Members to hearings as necessary. To ensure this arrangement can continue -

it is recommended that subject to the replacement of the post title of 'Executive Director of Central Services' with that of 'Director of Central Services and Monitoring Officer' the resolution made at the meeting of the Standards Committee held on 17th December 2003 be reaffirmed.

6. OTHER ISSUES

6.1 As lead Officer on probity issues, adviser to the Standards Committee, confidential adviser to Councillors and the responsible officer for initial assessment, investigations and hearings, the role of the Monitoring Officer has increased significantly under the new Regulations. To ensure that the necessary arrangements to discharge the functions in relation to the initial assessment and review of allegations are effectively administered in accordance with a clear and transparent procedure, it is proposed that a Monitoring Officer protocol setting out the responsibilities and discretions of the Monitoring Officer be introduced and that this should form part of the District Council's Constitution. A proposed protocol is enclosed at Annex C. The protocol refers, for example, to procedures for notifying Members who become subject to a code of conduct complaint, local resolution of complaints, how to deal with anonymous complaints, plus other matters relating to investigations.

6.2 Implementation of the requirements under the 2008 Regulations will require changes to the District Council's Constitution and in particular amendments to –

- ◆ Article 9 - Standards Committee;
- ◆ Article 12 – Officers (where reference is made to the duties and responsibilities of the Monitoring Officer/ Deputy Monitoring Officer);
- ◆ Part 3 – Responsibility for Functions – Table 2 – Responsibility for Council Functions (where the terms of reference and membership of the Standards Committee are described); and
- ◆ Part 5 – Codes and Protocols – the insertion of the new Monitoring Officer protocol.

6.3 Changes to the Constitution will be dependent on the decisions taken at today's meeting and subsequently by the Council and will be subject to consideration by the Council's Corporate Governance Panel who have responsibility for oversight of the Constitution.

7. RECOMMENDATIONS

7.1 The Committee is requested to consider the recommendations contained in paragraphs 3.8, 4.2 and 5.2 and as a consequence the Corporate Governance Panel be requested to endorse a series of variations to the District Council's Constitution as referred to in paragraph 6.2.

BACKGROUND PAPERS

The Council's Constitution
Standards Committee (England) Regulations 2008

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