

Meeting:	STANDARDS COMMITTEE
Date:	5 June 2008
Subject:	Ethical Standards
Responsible Officer:	Hugh Peart
Portfolio Holder:	Councillor David Ashton
Exempt:	No
Enclosures:	Appendix A – Notice Appendix B – Guidance & Complaint Form Appendix C – Standards Committee and Sub-Committees Terms of Reference Appendix D – Assessment Criteria

Section 1 – Summary and Recommendations

This report sets out the work undertaken in relation to the new system for handling complaints against members and the issues, which the Council needs to address in order to meet these new requirements.

Recommendations:

The Committee is requested to:

- (a) Approve the Terms of Reference of the Standards Committee and Sub-Committees at Appendix C with a recommendation to Council for adoption into the Constitution
- (b) Agree that the membership of the Assessment and Review Sub-Committees shall be three, comprising one independent member who

shall Chair the meeting and two elected members. The sub-committees should be politically balanced whenever possible.

- (c) Agree that the membership of the Hearing Sub-Committee shall remain as five (whenever possible) comprising three independent members, one of whom shall Chair the meeting. This sub-committee should be politically balanced whenever possible. This sub-committee shall be quorate when one independent and one elected member from each political party on the Standards Committee are present.
- (d) Agree that the members of the Standards Committee shall form a pool from which membership of the Sub-Committees shall be drawn.
- (e) Agree that the Monitoring Officer should prepare a pre-assessment report in relation to the complaint for consideration by the Assessment Sub-Committee.
- (f) Approved as drafted the criteria as set out at Appendix D for the preparation of the Pre-assessment Report, Assessing Complaints, and Referrals to the Standards Board for England
- (g) Agree that the member complained about should be informed of the complaint as soon as possible after the meeting of the Assessment Sub-Committee.
- (h) Provide comments, if necessary on the enclosures and the implementation process.
- (i) Agree to review the process at its meeting in March 2009.
- (j) Agree a training date.

Section 2 – Report

1. Background

- 1.1 In summary, the Government has changed the process for handling allegations of breaches of the Code of Conduct.
- 1.2 The Local Government and Public Involvement in Health Act 2007 came into force in October 200. In December 2007, this Committee considered a report in relation the handling of allegations of misconduct resulting in a breach of the Authority's Code of Conduct.
- 1.3 At that meeting, the Committee resolved to establish three sub-committees to deal with

- Filtering of written allegations that a Member or Co-opted Member might have failed to comply with the Code of Conduct (“Assessment Sub-Committee”)
- Requests for review of a decision not to refer a complaint for investigation (“Review Sub-Committee”)
- Determination of complaints that have been investigated (“Hearing Sub-Committee”)

1.4 However, enabling regulations on how the new system would operate and guidance was awaited.

2. The Current Position

2.1 The Government has now issued Regulations and the new procedures came into effect on 8 May 2008 (the same date as the Annual Council meeting). The Standards Board for England (SBE) has also issued guidance on the new arrangements.

2.2 The Council will have to take the following additional steps in order to comply with the legislative requirements:

- (a) Publicise the new arrangements. The guidance suggests that the complaints system may be publicised through the website, advertising in one or more local newspaper, the authority’s own newspaper or circular and notices placed in public areas such as local libraries or the reception.

A copy of the Notice, to publicise the new arrangements in accordance with the Guidance from the SBE, is attached at Appendix A.

- (b) Prepare Guidance and a new Complaint Form. This will be placed on the Council’s Intranet and Internet and copies will be available on request.

These have been prepared in accordance with the Regulations and Guidance, and are attached at Appendix B.

- (c) Amend the Standards Committee’s terms of reference to reflect its new functions. Attached at Appendix C.

- (d) Prepare new terms of reference for the various sub-committees, attached at Appendix C.

- (e) A training session will be arranged for all members of the committee (to include reserves) as soon as possible to work through the case studies produced by the Standards Board for England.

- (f) The Local Assessment and Determination Procedures require amending to reflect the new role. These will be reported to the next meeting of the Committee.

Membership of the Sub-Committees

- 2.3 This Committee having agreed to establish three sub-committees is now required to consider the membership of the sub-committees. According to the guidance from the SBE, the Assessment and Review Sub-Committees are not required to have a fixed membership or Chair. However, members who sit on the assessment sub-committee cannot sit on the review sub-committee for that particular matter.
- 2.4 The Assessment and Review Sub-Committee shall be not less than three. For a membership this shall comprise one independent member, who shall be the Chair, and two elected members from within the Standards Committee Membership.
- 2.5 With regard to the Hearing Sub-Committee it is proposed that this shall remain as five, in accordance with current practice. This Sub-Committee shall comprise three independent members, and two elected members from within the Standards Committee Membership. The meeting shall be chaired by one of the independent members.
- 2.6 It is proposed that the members of this Committee form a Pool from which membership of the Sub-Committees will be drawn. Reserve members will be called upon if necessary.
- 2.7 There is no requirement for the standards committee or the sub-committees to be politically proportionate. However, every effort will be made to ensure that the sub-committees are politically balanced.

Procedure on Receipt of Complaints

- 2.8 The Complaint Form and Guidance will be available to anyone who wants to make a complaint about a member. This can either be downloaded from the Council's website or on request a hard copy will be available.
- 2.9 All complaints will be received by the Monitoring Officer who will consider whether the allegation relates to a breach of the Code of Conduct. Where a breach of the Code of Conduct has been identified, this will be referred to the Assessment Sub-Committee for consideration. Where no breach has been identified the Monitoring Officer will consider whether the matter should be dealt with in accordance with the Council's Complaints Procedure and to refer the matter accordingly.
- 2.10 The guidance suggests good practice for the authority and it is proposed that these should be adopted:

- (a) That the Monitoring Officer should prepare a short summary of the complaint for the Assessment Sub-Committee to consider.
- (b) Criteria against which the Assessment Sub-Committee will assess new complaints.
- (c) Criteria against which referrals to the Standards Board for England will be assessed.

The information to be included in the pre-assessment report and the criteria for assessing new complaints and referrals to the Standards Board are set out in Appendix D for approval.

- 2.11 The Act requires the Standards Committee to notify the member of the receipt of the complaint and to provide a written summary of the allegation. The first meeting will be the meeting of the Assessment Sub-Committee and in the circumstances it is proposed that the member should be informed of the complaint and provided with a written summary after the meeting of the Assessment Committee.
- 2.12 It is proposed that these new procedures should be reviewed at its meeting in March 2009. Any amendments can, if appropriate be reported to the Annual Council meeting for adoption.

3. Legal Implications

- 3.1 The Local Government and Public Involvement in Health Act 2007 places new obligations on the Standards Committee to deal with written allegations that a member or co-opted member may have failed to comply with the Code of Conduct. These powers are in addition to the powers under Part III of the Local Government Act 2000.

4. Financial Implications

- 4.1 Financial implications with regard to this new process were outlined in previous reports. Complaints against members were previously dealt with by the Standards Board for England and have now been devolved to local authorities.
- 4.2 These changes will mean more sub-committees and more meetings. The Monitoring Officer and his staff will be required to undertake a significant amount of additional work in receiving allegations, and reporting to the relevant sub-committees and supporting the various sub-committees. It is therefore difficult to assess the level of impact this new service will have on the Council, particularly as no additional resources have been made available. Additional resources will be requested, if necessary.
- 4.3 The Standards Board for England previously dealt with these complaints, and no additional resources have been made available.

Section 3 - Statutory Officer Clearance

Name: Myfanwy Barrett	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 23 May 2008		
Name: Hugh Peart	<input checked="" type="checkbox"/>	Monitoring Officer
Date: 27 May 2008		

Section 4 - Contact Details and Background Papers

Contact: Elaine McEachron, Assistant Lawyer Corporate Governance Tel: 020 8420 9414 (x 5414)

Background Papers:

Local Government Act 2000

Local Government and Public Involvement in Health Act 2007

The Standards Committee (England) Regulations 2008

Standards Board for England – Local Assessment of Complaints