



STANDARDS COMMITTEE

AGENDA

Wednesday, 30th April, 2008, at 3.00 pm
in the Swale 3 - Sessions House,
County Hall, Maidstone

Ask for: **Mary Cooper**
Telephone: **(01622) 694354**

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Declarations of Interest
2. Minutes (Pages 1 - 2)
3. Presentation on website publication
4. Standard Committee Regulations (Pages 3 - 26)
5. Survey Results: BMG Satisfaction with the Standards Board for England and Attitudes to the Ethical Environment (Pages 27 - 34)
6. New Standards Recommendations (Pages 35 - 36)
7. Consultation Paper on Orders and Regulations relating to the Conduct of Local Authority Members in England (Pages 37 - 58)
8. Any other urgent business
9. Date of next meeting

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership

Tuesday, 22 April 2008

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

- (a) As requested by the Committee at its meeting on 19 March 2008, the Chief Executive and the Leaders of the three political groups have been invited to attend this meeting.
- (b) Members of the Remuneration Panel have been invited to attend for Item 3 on the agenda.

KENT COUNTY COUNCIL

STANDARDS COMMITTEE

MINUTES of a meeting of the Standards Committee held at Sessions House, County Hall, Maidstone on Wednesday, 19 March 2008.

PRESENT: Miss R MacCrone (Chairman), Mrs N Ahmed OBE DL; Mr L Christie, Mr D S Daley, Mr P A Gammon MBE and Mr J F London.

IN ATTENDANCE: The Director of Law & Governance, Mr G Wild; Democratic Services Manager, Mrs M E Cooper.

UNRESTRICTED ITEMS

9. Minutes

(Item 4)

RESOLVED that the Minutes of the meeting held on 22 January 2008 are correctly recorded and that they be signed by the Chairman.

Matters Arising

This being the last meeting of the Committee prior to the retirement of Mr S Ballard, it was requested that thanks be recorded for his services to the Committee.

10. Debrief on Training Event at Gravesend

(Item 3) – Oral Report by Mr L Christie

RESOLVED that:-

- (a) the report be noted;
- (b) the programme, together with the case studies, be sent to Members of the Committee who were unable to attending the training event; and
- (c) the possibility of arranging places on a future course be explored.

11. Preparation for new local Standards Regime

(Item 4 - Report by Miss R MacCrone)

(1) The Committee discussed the paper in detail and put forward suggestions to ensure that Kent County Council was prepared when the new Local Standards Regime came into effect.

(2) RESOLVED that:-

- (a) the report be noted;
- (b) a presentation on the proposed web page on KNet for Standards Committee be given to the next meeting of the Committee; and

19 March 2008

- (c) the Group Leaders, together with the Chief Executive, be invited to the next meeting of the Committee.

12. Date of next meeting
(Item 5)

RESOLVED that the next meeting of the Committee be held on 30 April 2008 at 3pm and also 22 May 2008 at 10am to be held as a provisional date.

08/c&g/standardsctte/031908/minutes

By: Head of Democratic Services and Local Leadership

To: Standards Committee – 30 April 2008

Subject: THE STANDARD COMMITTEE (ENGLAND) REGULATIONS
2008

Classification: Unrestricted

FOR INFORMATION

1. Attached Members will find the statutory instrument giving:
 - Constitution and General Proceedings of Standards Committees and Sub-Committees
 - Procedures relating to Allegations
2. Please note that on pages 19 to 21 an explanatory note of the regulations has been included.

3. Recommendation

Members are asked to note this report.

Peter Sass
Head of Democratic Services and Local Leadership
Tel: 01622 694002

Background Documents: None

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2008 No. 1085

LOCAL GOVERNMENT, ENGLAND AND WALES

The Standards Committee (England) Regulations 2008

<i>Made</i>	- - - -	<i>14th April 2008</i>
<i>Laid before Parliament</i>		<i>17th April 2008</i>
<i>Coming into force</i>	- -	<i>8th May 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 53(6) and (12), 54(4), 54A(4), 55(8), 57C(7), 66(1) to (4A), 73(1) and (6) and 105 of the Local Government Act 2000(a), makes the following Regulations:

PART 1
GENERAL

Citation and commencement

1. These Regulations may be cited as the Standards Committee (England) Regulations 2008 and shall come into force on 8th May 2008.

Interpretation

2. In these Regulations—

“the Act” means the Local Government Act 2000;

“the 1972 Act” means the Local Government Act 1972(b);

“the 1989 Act” means the Local Government and Housing Act 1989(c);

“Adjudication Panel” means the Adjudication Panel for England constituted under section 75 of the Act;

“ethical standards officer” means an ethical standards officer appointed under section 57(5)(a) of the Act;

“independent member” means a person appointed to a standards committee, or sub-committee of the standards committee, of an authority, who is not a member, or an officer, of that or any other relevant authority;

(a) 2000 c. 22. Section 54A was inserted into the 2000 Act by section 113(1) of the Local Government Act 2003 (c. 26); section 55 was amended by section 188(2) of the Local Government and Public Involvement in Health Act 2007 (c.28), and section 66 was amended by section 194 of the 2007 Act; section 57C was inserted into the 2000 Act by section 185 of the 2007 Act; section 73(1) and (6) were amended by section 194(8) of the 2007 Act. There are other amendments to section 73 which are not relevant to these Regulations.

(b) 1972 c. 70.

(c) 1989 c. 42.

“member”, in relation to parish councils, includes persons appointed under section 16A of the 1972 Act;

“monitoring officer”, in relation to an authority which is a relevant authority for the purposes of section 5 of the 1989 Act (designation and reports of monitoring officer)(a) means the monitoring officer designated under subsection (1) of that section and includes any person for the time being nominated by the monitoring officer as deputy for the purposes of that section and any person nominated under section 82A(2) or (3) of the Act(b) to perform any function;

“partner” includes a spouse, civil partner or someone a person lives with in a similar capacity;

“relative” means a partner, a parent, a parent of a partner, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of a partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of the preceding persons;

“responsible authority” means a district council or unitary county council(c) which has functions in relation to parish councils for which it is responsible under section 55(12) of the Act;

“Standards Board” means the Standards Board for England constituted under section 57 of the Act.

PART 2

CONSTITUTION AND GENERAL PROCEEDINGS OF STANDARDS COMMITTEES AND SUB-COMMITTEES

Interpretation of Part 2

3. In this Part “authority”, except where the context otherwise requires, means a relevant authority in England other than a parish council.

Composition of standards committees

4.—(1) An authority must ensure that—

- (a) at least 25% of the members of its standards committee are independent members; and
- (b) where it is operating executive arrangements under Part 2 of the Act, only one member of its standards committee is a member of the executive.

(2) Where an authority is a responsible authority, it must ensure that at least two members of the standards committee are members of parish councils for which it is responsible, who are not also members of the responsible authority.

Appointments to standards committees

5.—(1) Subject to the following provisions of this regulation, a person may only be appointed as an independent member of a standards committee if the appointment is—

- (a) approved by a majority of the members of the authority;
- (b) advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;

(a) As to “relevant authority”, see the definition in section 5(8) of the 1989 Act. That definition was amended by the Local Government Act 2000 (c. 22), Schedule 5, paragraph 24(1) and (7). A relevant amendment to section 5 of the 1989 Act (the insertion of subsection (8A)) was made by paragraph 24(1) and (8) of that Schedule. There are other amendments to section 5 that are not relevant to these Regulations.

(b) Section 82A was inserted by section 113(2) of the Local Government Act 2003 (c. 26). Subsection (1) was amended by section 194(9) of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(c) See section 55(13) of the Act for the definition of “unitary county council”.

(c) of a person who submitted an application to the authority.

(2) But a person may not be appointed as an independent member of a standards committee if that person—

(a) has within the period of five years immediately preceding the date of the appointment been a member or officer of the authority; or

(b) is a relative or close friend of a member or officer of the authority.

(3) A person who is an independent member of the standards committee of a different relevant authority, may be appointed as an independent member of the standards committee of an authority unless that person—

(a) has within the period of five years immediately preceding the date of the appointment been a member or officer of that authority; or

(b) is a relative or close friend of a member or officer of that authority.

(4) An independent member appointed under paragraph (3) may, as an alternative to being appointed for a specified period of time, be appointed in relation to a particular allegation, or set of allegations against a member, co-opted member, former member, or former co-opted member, and the term of office of an independent member so appointed shall be fixed accordingly.

(5) Subject to paragraph (7), an authority may adopt such procedures as it thinks fit for the appointment to the standards committee of—

(a) independent members under paragraph (3) of this regulation; and

(b) members of parish councils.

(6) Any person appointed as an independent member of a standards committee of an authority under this regulation who becomes—

(a) a member or officer of an authority; or

(b) a relative of a member or officer of that authority,

shall cease to be a member of the standards committee.

(7) An authority must have regard to any relevant guidance issued by the Standards Board in making appointments under this regulation.

Sub-committees of standards committees

6.—(1) The standards committee of an authority shall, under section 54A of the Act—

(a) appoint sub-committees, each of which must be chaired by an independent member, to discharge any function specified in section 57A of the Act; and

(b) appoint sub-committees, each of which must be chaired by an independent member, to discharge any function specified in section 57B of the Act.

(2) If the standards committee of an authority appoints sub-committees to discharge functions under regulations 17 to 20 of these Regulations, those sub-committees must be chaired by an independent member.

Validity of proceedings

7.—(1) A meeting of a standards committee, or sub-committee of a standards committee, shall not be quorate unless at least three members of that committee or sub-committee are present for its duration.

(2) Where a meeting of a sub-committee of a standards committee is convened to consider a request under section 57B(2) of the Act, no decision on that request may be taken by the sub-committee if any member of that sub-committee is present who took part in the decision under section 57A(2) of the Act to which that request relates.

(3) Where a meeting of a standards committee, or sub-committee of a standards committee of an authority is convened to discharge any function specified—

- (a) in sections 57A or 57B of the Act; or
- (b) in regulation 17 to 20 of these Regulations,

no decision may be taken unless at least one member of that authority is present when such matters are being considered.

(4) Where a meeting of a standards committee, or sub-committee of a standards committee, is convened to discharge any function specified—

- (a) in sections 57A or 57B of the Act; or
- (b) in regulation 17 to 20 of these Regulations,

relating to a member or former member of a parish council, no decision may be taken unless at least one member of a parish council for which the authority is the responsible authority, who is not also a member of that responsible authority, is present when such matters are being considered.

Application of the Local Government Act 1972

8.—(1) Subject to paragraphs (2), (3), (5) and (6), Part 5A of the 1972 Act^(a) shall apply in relation to meetings of a standards committee, or sub-committee of a standards committee, of an authority as it applies to meetings of a principal council in England.

(2) Sections 100E, 100G, 100J and 100K of that Part shall not apply.

(3) Where, by virtue of paragraph (1), a responsible authority must act in accordance with section 100A(6)(a), 100B(1) or 100C(1) of the 1972 Act it shall also give to every parish council for which it is responsible—

- (a) written notice of the time and place of the meeting at least five clear days before that meeting or, if the meeting is convened at shorter notice, then at the time that it is convened;
- (b) a copy of the agenda for the meeting and a copy of any report for the meeting at least five clear days before the meeting, except that—
 - (i) where the meeting is convened at shorter notice, the copies of the agenda and any report shall be given to the parish council at the time the meeting is convened; and
 - (ii) where an item is added to an agenda, of which a copy has been given to a parish council, a copy of the item (or of the revised agenda), and of any report to be presented at the meeting relating to the item shall be given to the parish council at the time the item is added to the agenda; and
- (c) a copy of the minutes excluding so much of the minutes of proceedings during which the meeting was not open to the public under section 100A(2) or (4) of the 1972 Act, or where applicable, a copy of a summary made under section 100C(2) of that Act.

(4) Nothing in paragraph (3)(b) requires copies of any agenda item or report to be given to the parish council until copies are available to members of the responsible authority.

(5) (a) Where a meeting of a sub-committee of a standards committee is convened to consider an allegation received under section 57A(1) of the Act or to review a decision under section 57B of the Act, the following provisions of this paragraph shall apply, and the provisions of Part 5A of the 1972 Act shall not apply.

- (b) The sub-committee shall produce a summary in writing of its consideration of the allegation or review of the decision.
- (c) The written summary—
 - (i) must record the main points considered, its conclusion as regards the allegation or review of the decision and the reasons for that conclusion;

(a) Part 5A was inserted by the Local Government (Access to Information) Act 1985 (c. 43).

- (ii) must be prepared having regard to any relevant guidance issued by the Standards Board;
- (iii) may give the name of any member, co-opted member, former member or former co-opted member, who was the subject of the allegation, unless such disclosure is not in the public interest or would prejudice any investigation;
- (iv) must be made available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the meeting; and
- (v) must be given to any parish council of which any person who is the subject of an allegation referred to in the written summary is a member;

but nothing in this sub-paragraph requires the written summary to be open to inspection or given to any parish council until the person who is the subject of the allegation has been given a written summary under section 57C(2) of the Act.

(6) Where a meeting of a standards committee, or sub-committee of a standards committee, is convened to consider a matter under regulations 13 or 16 to 20 of these Regulations, or referred under section 58(1)(c) of Act, the provisions of Parts 1 to 3 of Schedule 12A to the 1972 Act shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted—

“7A. Information which is subject to any obligation of confidentiality.

7B. Information which relates in any way to matters concerning national security.

7C. Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.”.

PART 3

PROCEDURES RELATING TO ALLEGATIONS

Interpretation of Part 3

9. In this Part—

“appeals tribunal” means a tribunal appointed by the president or deputy president of the Adjudication Panel consisting of members drawn from the Adjudication Panel;

“authority” except where the context otherwise requires, means a relevant authority in England;

“matter”, in references to section 57A of the Act means a written allegation made under subsection (1) of that section;

“member”, except where the context otherwise requires, includes a co-opted member, former member or former co-opted member of an authority;

“standards committee” means the standards committee, or sub-committee of a standards committee, which exercises functions in relation to an authority under Part 3 of the Act.

Written allegations

10.—(1) Every standards committee shall publish in such manner as it considers appropriate, details of the address or addresses to which written allegations under section 57A(1) of the Act should be sent.

(2) Every standards committee shall take reasonable steps to ensure that the details published under paragraph (1) continue to be brought to the attention of the public and that any changes to those details are promptly published.

(3) Every standards committee shall publish in such manner as it considers appropriate, details of the procedures it will follow in relation to any written allegation received under section 57A(1).

(4) In complying with its obligations under this regulation, every standards committee shall take account of any relevant guidance issued by the Standards Board.

Modification of duty to give written summary to subject of allegation

11.—(1) The duty in section 57C(2) of the Act to take reasonable steps to give a written summary to the person who is the subject of an allegation does not arise at the time the standards committee receives the allegation, if the standards committee determines that to do so would be contrary to the public interest or would prejudice any person's ability to investigate the allegation.

(2) In reaching a determination whether it is contrary to the public interest or would prejudice any person's ability to investigate the allegation, the standards committee must take account of any guidance issued by the Standards Board and may take account of any advice received from the monitoring officer or any ethical standards officer concerned.

(3) Where the duty in section 57C(2) of the Act does not arise at the time the standards committee receives an allegation, by virtue of paragraph (1), the standards committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of that allegation—

- (a) when the monitoring officer or ethical standards officer has advised the standards committee that it would no longer be contrary to the public interest or prejudicial to any investigation; and in any event
- (b) before any consideration of any report or recommendation from a monitoring officer or ethical standards officer relating to that allegation.

(4) Nothing in this regulation prevents—

- (a) a monitoring officer from notifying the subject of an allegation that an allegation has been made; or
- (b) the standards committee from giving the subject of an allegation some details of the allegation if the standards committee is of the opinion that disclosure of those details would not be contrary to the public interest and would not prejudice any investigation.

Application of section 63 of the Local Government Act 2000 with modification

12.—(1) Subsection (1) of section 63 of the Act (restrictions on disclosure of information) shall apply in respect of information obtained by monitoring officers in the performance of any of their functions under Part 3 of the Act and regulations made under that Part, as they apply in respect of information obtained by ethical standards officers under sections 61 and 62 of the Act, subject to the modification set out below.

(2) The modification is the insertion, after paragraph (a), of the following paragraph—

“(aa) the disclosure is made for any one or more of the following purposes—

- (i) enabling a standards committee or sub-committee of a standards committee established under this Part to perform any of its functions under this Part, or under regulations made under this Part, in connection with the investigation and consideration of an alleged breach of an authority's code of conduct; or
- (ii) enabling a tribunal drawn from members of the Adjudication Panel to consider any appeal from a finding of a standards committee or sub-committee of a standards committee established under this Part in connection with an alleged breach of an authority's code of conduct.”.

Referral of matters to monitoring officer for steps other than an investigation

13.—(1) This regulation applies—

- (a) where a standards committee refers a matter to a monitoring officer under section 57A(2)(a) or 57A(3) of the Act; or
 - (b) an ethical standards officer refers a matter under section 60(2) or 60(3) of the Act,
- with a direction to take steps other than carrying out an investigation.

(2) A standards committee may only make a referral under paragraph (1) after consultation with the monitoring officer.

(3) The steps referred to in paragraph (1) are—

- (a) arranging for the member who is the subject of an allegation to attend a training course;
- (b) arranging for that member and the complainant to engage in a process of conciliation;
- (c) such other steps (not including an investigation), as appear appropriate to the standards committee, or as the case may be, the ethical standards officer.

(4) Where a matter is referred to a monitoring officer under this regulation, the monitoring officer—

- (a) shall deal with the matter in accordance with the direction; and
- (b) shall give notice that the matter has been so referred to—
 - (i) the member who is the subject of the allegation,
 - (ii) any person who made the allegation which gave rise to the referral,
 - (iii) the standards committee of any other authority concerned; and
 - (iv) any parish council concerned;
- (c) within the period of three months beginning on the day on which the direction was received, or as soon as is reasonably practicable thereafter, submit a written report giving details of the action taken or proposed, to comply with the direction—
 - (i) where the matter was referred to the monitoring officer under section 57A of the Act, to the standards committee; or
 - (ii) where the matter was referred to the monitoring officer under section 60 of the Act, to the ethical standards officer concerned.

(5) If the standards committee is not satisfied with the action specified in the report received under paragraph (4)(c)(i), it shall give a further direction to the monitoring officer.

(6) If the standards committee is satisfied with the action specified in the report received under paragraph (4)(c)(i), it shall give written notice to that effect to—

- (a) the member who is the subject of the report;
- (b) any person who made an allegation that gave rise to the referral;
- (c) the standards committee of any other authority concerned; and
- (d) any parish council concerned.

(7) If the ethical standards officer concerned is satisfied with the action specified in the report received under paragraph (4)(c)(ii), that officer shall give written notice to that effect to—

- (a) the member who is the subject of the report;
- (b) any person who made an allegation that gave rise to the referral;
- (c) the standards committee of any authority concerned; and
- (d) any parish council concerned.

(8) If the ethical standards officer concerned is not satisfied with the action specified in the report received under paragraph (4)(c)(ii), that officer may require the monitoring officer to arrange for a statement to be published in at least one newspaper circulating in the area of any authority concerned, giving—

- (a) details of the direction given by the ethical standards officer;
- (b) the ethical standards officer's reasons for being dissatisfied; and
- (c) the monitoring officer's response to the ethical standards officer's reasons for being dissatisfied.

Referral of matters to a monitoring officer for investigation

14.—(1) This regulation applies where a matter is referred to a monitoring officer under section 57A(2)(a), 57A(3), 60(2) or (3) of the Act otherwise than in accordance with regulation 13(1).

(2) The monitoring officer shall, unless otherwise directed by the ethical standards officer or standards committee—

- (a) inform
 - (i) the member who is the subject of the allegation;
 - (ii) any person who made the allegation which gave rise to the referral;
 - (iii) the standards committee of any other authority concerned; and
 - (iv) any parish council concerned,

that the matter has been referred for investigation;

- (b) subject to paragraph (5), conduct an investigation into the matters referred;
- (c) give any member who is the subject of the investigation the opportunity to comment on the allegation made;

(3) The monitoring officer shall, in conducting an investigation, have regard to any relevant guidance issued, and shall comply with any relevant direction given, by the Standards Board.

(4) The monitoring officer may, in conducting an investigation—

- (a) make such inquiries of any person as the monitoring officer thinks necessary or expedient for the purpose of conducting that investigation;
- (b) require any person to give such information or explanation as the monitoring officer thinks necessary or expedient for the purpose of conducting that investigation;
- (c) require any of the authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation;
- (d) require any of the authorities concerned, other than a parish council, to meet the reasonable cost of any advice and assistance provided in accordance with sub-paragraph (c);
- (e) if any of the authorities concerned is a parish council, require the responsible authority to meet any reasonable costs incurred by that parish council in accordance with sub-paragraph (d); and
- (f) require any of the authorities concerned to afford reasonable access to such documents in the possession of that authority as appear to the monitoring officer to be necessary for the purpose of conducting the investigation.

(5) In the case of an investigation pursuant to a reference under section 60(2) or (3) of the Act, the monitoring officer of an authority may, at any stage prior to the completion of the investigation, by a request in writing to the ethical standards officer concerned, ask that the matter be referred back to that ethical standards officer for investigation; and any such request must set out the reasons for making it.

(6) The ethical standards officer must respond to a request under paragraph (5) within 21 days of its receipt and may—

- (a) direct that the matter be so referred for investigation, in which case the investigation by the monitoring officer concerned shall cease; or

- (b) direct the monitoring officer concerned to continue the investigation in accordance with these Regulations.
- (7) Where a direction is given under paragraph (6)(b), the monitoring officer may not make a further request under paragraph (5) in respect of the same matter.
- (8) On completion of an investigation under this regulation, the monitoring officer shall—
 - (a) make a finding—
 - (i) that there has been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned (“a finding of failure”); or
 - (ii) that there has not been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned (“a finding of no failure”);
 - (b) prepare a written report of the investigation which contains a statement as to the finding;
 - (c) send a copy of that report to the member who was the subject of the investigation;
 - (d) refer the report to—
 - (i) the standards committee of the authority; and
 - (ii) the standards committee of any other authority, other than a parish council, of which the person who was the subject of the investigation is a member, if that other authority so requests.

Matters referred to monitoring officer after investigation

15. Where a matter is referred to a monitoring officer under section 64(2) or (4) of the Act the monitoring officer shall—

- (a) send a copy of any report received from the ethical standards officer who has referred the matter, to any member who is the subject of such a report; and, after that member has received the report,
- (b) refer the report to the standards committee of the authority for consideration under regulation 17.

References back from monitoring officer

16.—(1) Where a matter is referred to a monitoring officer under section 57A(2)(a) of the Act for investigation, the monitoring officer may, subject to paragraph (4), refer that matter back to the standards committee concerned if—

- (a) as a result of new evidence or information, the monitoring officer is of the opinion that the matter—
 - (i) is materially more serious; or
 - (ii) materially less serious
 than may have seemed apparent to the standards committee when it made its decision under section 57A(2) of the Act, and
- (iii) that the standards committee would have made a different decision had it been aware of that new evidence or information; or
- (b) the person who is the subject of the allegation—
 - (i) has died; or
 - (ii) is seriously ill; or
 - (iii) has resigned from the authority concerned, and

the monitoring officer is of the opinion that in the circumstances it is no longer appropriate to continue with an investigation.

(2) If a matter is referred back to a standards committee under this regulation, the standards committee shall make a decision under section 57A(2) of the Act as if the matter had been made to it under section 57A(1) of the Act.

(3) In forming an opinion for the purposes of paragraph (1)(a), a monitoring officer may take account of—

- (a) the failure of any person to co-operate with an investigation; or
- (b) an allegation that the member concerned has engaged in a further breach of the code of conduct of a relevant authority; or
- (c) an allegation that another member has engaged in a related breach of the code of conduct of a relevant authority.

(4) Where a standards committee considers a matter referred back to it under this regulation, it may direct that the matter should not be referred back a further time.

Consideration of reports by standards committee

17.—(1) Where a monitoring officer refers a report to the standards committee of any authority under regulation 14 or 15, that standards committee shall convene to consider that report and make one of the following findings—

(a) that it accepts the monitoring officer's finding of no failure ("a finding of acceptance"); or

(b) that the matter should be considered at a hearing of the standards committee conducted under regulation 18; or

(c) that the matter should be referred to the Adjudication Panel for determination.

(2) A standards committee may only make a finding under sub-paragraph (1)(c) if—

(a) it has determined that the action it could take against the member would be insufficient were a finding of failure to be made; and

(b) the president or deputy president of the Adjudication Panel has agreed to accept the referral.

(3) As soon as reasonably practicable after making a finding of acceptance, the standards committee shall—

(a) give written notice of that finding to—

- (i) the member who is the subject of the finding of no failure;
- (ii) any ethical standards officer concerned;
- (iii) the standards committee of any other authority concerned;
- (iv) any parish council concerned; and

(v) the person who made the allegation that gave rise to the investigation; and

(b) subject to paragraph (4), arrange for a notice to be published stating that the standards committee have found that there has been no failure on the part of the member concerned to comply with the code of conduct of the authority concerned or, as the case may be, with the code of conduct of any other authority concerned.

(4) The notices referred to in paragraph (3)(b) shall not be published if the member concerned so requests.

(5) Unless paragraph (4) applies, the notice referred to in paragraph (3)(b) shall be published—

- (a) in at least one newspaper circulating in the area of any authority concerned; and
- (b) if considered appropriate by the standards committee, on the web page of any authority concerned; and

(c) if considered appropriate by the standards committee, in any other publication.

(6) A tribunal may be appointed from the members of the Adjudication Panel to deal with a reference under sub-paragraph (1)(c), as if the reference had been made under section 64(3)(b) of the Act and shall have the same powers to take action as in such a case.

(7) Where a tribunal appointed under paragraph (6) decides that a member has failed to comply with the code of conduct of an authority, the member may appeal to the High Court against that decision, or any other decision made by that tribunal.

Hearings by standards committee

18.—(1) Where a standards committee holds a hearing pursuant to a finding under regulation 17(1)(b), it shall ensure that—

- (a) the hearing is conducted having regard to any relevant guidance issued by the Standards Board;
- (b) subject to sub-paragraph (c), the hearing is held within the period of 3 months beginning—
 - (i) in the case of a report referred by an ethical standards officer, on the date on which the monitoring officer received the report; or
 - (ii) in the case of a report prepared by the monitoring officer, on the date on which the report is completed;
- (c) the hearing is not held until at least fourteen days after the date on which the monitoring officer sent the report to the member who is the subject of the allegation, unless the member concerned agrees to the hearing being held earlier;
- (d) if the hearing is not held within the period specified in sub-paragraph (b), it is held as soon as reasonably practicable thereafter;
- (e) any member who is the subject of a report being considered by the standards committee is given the opportunity to present evidence and make representations at the hearing—
 - (i) either orally or, if the member chooses, in writing; and
 - (ii) either personally, or by counsel or by a solicitor or, with the committee's consent, by any other representative.

(2) A standards committee may, subject to paragraph (1)(a) and (e), conduct a hearing using such procedures as it considers appropriate in the circumstances.

(3) A standards committee may arrange for the attendance at a hearing of such witnesses as it considers appropriate.

(4) Subject to paragraph (5), a member who is the subject of a hearing may arrange for the attendance at that hearing of such witnesses as that person wishes.

(5) A standards committee may place a limit on the number of witnesses a member who is the subject of a hearing may call if it considers that the number that the member proposes to call is unreasonable.

(6) A member who is the subject of a hearing may be represented by counsel, by a solicitor or, with the consent of the standards committee, by any other representative.

(7) If a member who is the subject of a report to the standards committee fails to attend a hearing of which that member has been given notice, the standards committee may—

- (a) unless it is satisfied that there is sufficient reason for such failure, consider the allegation and make a determination in the absence of that member; or
- (b) adjourn the hearing to another date.

(8) A standards committee may, at any stage prior to the conclusion of the hearing, adjourn the hearing and require the monitoring officer to seek further information or

undertake further investigation on any point specified by it; but the standards committee shall not adjourn the hearing on more than one occasion under this paragraph.

(9) Paragraphs (10) to (13) apply only to cases where the report under consideration has been referred to a monitoring officer under section 64(2) or (4) of the Act.

(10) A standards committee may at any stage prior to the conclusion of the hearing, adjourn the hearing and make a written request to the ethical standards officer concerned that the matter be referred back to the ethical standards officer for further investigation; and any such request must set out the committee's reasons for making it.

(11) Where a matter is referred to an ethical standards officer under paragraph (10), the ethical standards officer must respond to the request within 21 days of its receipt and may—

- (a) agree to accept the referral for further investigation and direct that the standards committee shall cease its consideration of the matter; or
- (b) direct the standards committee to continue to deal with the matter in accordance with these Regulations, in which case the standards committee shall do so and shall not make any further request under paragraph (10) in respect of the matter.

(12) Where the ethical standards officer gives a direction under paragraph (11)(b), the standards committee shall convene to continue its consideration of the matter within three months of the receipt of the ethical standards officer's direction or as soon as practicable thereafter.

(13) Paragraph (1)(a), (c) and (e) and paragraphs (2) to (8) of this regulation shall apply to a hearing convened under paragraph (12) as they apply to a hearing convened under paragraph (1).

Findings of standards committees

19.—(1) Following a hearing held under regulation 18, a standards committee shall make one of the following findings—

- (a) that the member who was the subject of the hearing had not failed to comply with the code of conduct of any authority concerned;
- (b) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or
- (c) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned and that a sanction under paragraph (2) or (3) should be imposed.

(2) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is no longer a member of any authority in respect of which it exercises any function under Part 3 of the Act, it shall censure that person.

(3) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is a member of an authority in respect of which it exercises any functions under Part 3 of the Act, it shall impose any one of, or any combination of, the following sanctions—

- (a) censure of that member;
- (b) restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions—
 - (i) are reasonable and proportionate to the nature of the breach; and
 - (ii) do not unduly restrict the person's ability to perform the functions of a member;

- (c) partial suspension^(a) of that member for a period not exceeding six months;
- (d) suspension of that member for a period not exceeding six months;
- (e) that the member submits a written apology in a form specified by the standards committee;
- (f) that the member undertakes such training as the standards committee specifies;
- (g) that the member participate in such conciliation as the standards committee specifies;
- (h) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee;
- (i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies;
- (j) suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the standards committee;
- (k) suspension of the member for a period not exceeding six months or until such time as that member has undertaken such training or has participated in such conciliation as the standards committee specifies.

(4) Subject to paragraph (5) and regulation 21 any sanction imposed under this regulation shall commence immediately following its imposition by the standards committee.

(5) A standards committee may direct that the sanction imposed under any of sub-paragraphs (b) to (k) of paragraph (3) or, where a combination of such sanctions is imposed, such one or more of them as the committee specifies, shall commence on such date, within a period of six months after the imposition of that sanction, as the committee specifies.

Notification of findings of standards committees

20.—(1) A standards committee shall, as soon as reasonably practicable after making a finding under regulation 19—

- (a) give written notice of the finding and the reasons for it to—
 - (i) the member who is the subject of the finding;
 - (ii) the Standards Board;
 - (iii) the standards committee of any other authority concerned;
 - (iv) any parish councils concerned; and
 - (v) any person who made an allegation that gave rise to the investigation; and
 - (b) subject to sub-paragraph (2)(b), arrange for a summary of the notice under paragraph (1)(a) to be published—
 - (i) in at least one newspaper circulating in the area of every authority concerned; and
 - (ii) if considered appropriate by the standards committee, on the web page of any authority concerned; and
 - (iii) if considered appropriate by the standards committee, in any other publication.
- (2) Where the standards committee makes a finding under regulation 19(1)(a),
- (a) the notice under paragraph (1)(a) of this regulation shall state that the standards committee has found that the member who was the subject of the hearing had not

(a) See section 83(7) of the Local Government Act 2000 (c. 22) for a definition of partial suspension.

failed to comply with code of conduct of any authority concerned and shall give its reasons for that finding; and

(b) paragraph (1)(b) shall not apply if the member concerned so requests.

(3) Where the standards committee makes a finding under regulation 19(1)(b), the notice under paragraph (1)(a) of this regulation shall—

(a) state that the standards committee found that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned, but that no action needs to be taken in respect of that failure;

(b) specify the details of the failure;

(c) give the reasons for the standards committee's finding; and

(d) state that the member concerned may apply under regulation 21 of these Regulations for permission to appeal against the finding.

(4) Where the standards committee makes a finding under regulation 19(1)(c), the notice under paragraph (1)(a) of this regulation shall—

(a) state that the standards committee found that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned;

(b) specify the details of the failure;

(c) give reasons for the standards committee's finding;

(d) specify the sanction imposed in accordance with regulation 19(2) or (3); and

(e) state that the member concerned may apply under regulation 21 for permission to appeal against the finding or sanction imposed.

Notices of appeals

21.—(1) Where a standards committee makes a finding under regulation 19(1)(b) or (c), the member who is the subject of that finding may, by way of notice in writing given to the president of the Adjudication Panel—

(a) seek permission to appeal; and, if appropriate,

(b) apply for the suspension of any sanction imposed under regulation 19(3)(b) to (k) until such time as any appeal is determined.

(2) The notice specified in paragraph (1) must be received by the president of the Adjudication Panel within 21 days of the member's receipt of the notice under regulation 20(1)(a) and must specify—

(a) the finding against which the member seeks permission to appeal;

(b) in the case of a finding under regulation 19(1)(c) whether the appeal is against the finding that the member has failed to comply with a code of conduct, or if it is against the sanction which has been imposed, or both;

(c) the grounds of the appeal;

(d) whether any application for suspension of any sanction is made; and

(e) whether or not the member consents to the appeal being conducted by way of written representations.

(3) An application for permission to appeal or to suspend a sanction, shall be decided by the president of the Adjudication Panel or, in the absence of the president, by the deputy president, on consideration of the application and, unless the president or the deputy president (as the case may be) considers that special circumstances render a hearing desirable, in the absence of the parties.

(4) In deciding whether to give permission to appeal, the president, or deputy president (as the case may be), shall have regard to whether, in their opinion, there is a reasonable prospect of the appeal being successful (either in whole or in part).

(5) Permission to appeal or to suspend a sanction may be given in relation to the whole or any specified part of the finding or sanction.

(6) The president, or the deputy president (as the case may be), shall, within 21 days of receipt of a notice given in accordance with paragraphs (1) and (2), send notice of their decision to—

- (a) the member who gave the notice under paragraph (1);
- (b) the Standards Board;
- (c) the standards committee of any authority concerned;
- (d) any parish councils concerned; and
- (e) any person who made an allegation that gave rise to the investigation.

(7) If permission to appeal or for suspension of a sanction is refused, whether as to the whole or in part, the notice given under paragraph (6) shall give the reasons for the decision.

Conduct of appeals

22.—(1) Where permission to appeal has been given, the president or deputy president (as the case may be) shall refer the matter to an appeals tribunal which shall conduct the appeal in accordance with these Regulations.

(2) Where the member does not consent to the appeal being conducted by written representations, an appeals tribunal shall conduct an appeal hearing.

(3) The appeals tribunal shall give the member at least 21 days notice in writing of the date of the hearing.

(4) Where the member consents to an appeal being conducted by way of written representations, the appeals tribunal may either—

- (a) conduct an appeal hearing; or
- (b) conduct the appeal by way of written representations,

as it thinks fit.

(5) The member may appear at an appeal hearing in person or may be represented by counsel, a solicitor or, subject to the consent of the appeals tribunal, any other representative.

(6) The standards committee may be represented at an appeals hearing by any member of that committee, the monitoring officer of the authority concerned, by counsel, a solicitor or, subject to the consent of the appeals tribunal, any other representative.

Composition and procedures of appeal tribunals

23.—(1) An appeals tribunal shall consist of not less than three members appointed by the president of the Adjudication Panel (or, in the absence of the president, by the deputy president), from the members of the Adjudication Panel.

(2) The president or the deputy president of the Adjudication Panel may be a member of an appeals tribunal.

(3) A member of the Adjudication Panel may not at any time be a member of an appeals tribunal drawn from the Panel which is to conduct an appeal on a matter relating to a member of an authority if, within the period of five years ending with that time, the member of the Adjudication Panel has been a member or an officer of any of the authorities concerned or a member of any committee, sub-committee, joint committee or joint sub-committee of any of the authorities concerned.

(4) A member of the Adjudication Panel who is directly or indirectly interested in any matter which is, or is likely to be the subject of an appeal conducted by an appeals tribunal—

- (a) must disclose the nature of the interest to the Panel's president or deputy president; and
 - (b) may not be a member of the appeals tribunal which conducts an appeal in relation to that matter.
- (5) The procedure for conducting an appeal shall be such as the appeals tribunal considers appropriate in the circumstances.

Failure of member concerned to attend appeal hearing

24.—(1) If a member concerned has been duly notified of an appeal hearing and fails to attend or be represented at that hearing, the appeals tribunal may—

- (a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in that member's absence, or
 - (b) adjourn the hearing.
- (2) Before deciding to determine an appeal in the absence of the member concerned, the appeals tribunal shall consider any representations in writing submitted by that member in response to the notice of the hearing and, for the purpose of this paragraph, any written reply to that notice shall be treated as a the member's representations in writing.

Outcome of appeals

25.—(1) An appeals tribunal must uphold or reject the finding or, where permission to appeal was granted as to only part of the finding, that part of the finding, to which the appeal relates, or may allow the appeal as regards a specified part of the finding.

(2) Where an appeals tribunal rejects the finding, the decision of the standards committee (including any sanction imposed) shall cease to have effect from the date of the rejection.

(3) Where an appeals tribunal upholds the finding of a standards committee made under regulation 19(1)(b), it may confirm the decision of that committee to impose no sanction or it may impose any sanction which was available to the standards committee.

(4) Where an appeals tribunal upholds the finding, or part of a finding, of a standards committee made under regulation 19(1)(c), it may confirm any sanction imposed by that committee, or vary it by substituting any other sanction which was available to the standards committee.

(5) Subject to paragraph (6), any sanction imposed under this regulation shall take effect immediately after its imposition.

(6) An appeals tribunal may direct that any sanction imposed under this regulation shall take effect on such date, within the period of six months after its imposition, as the appeals tribunal may specify.

- (7) The appeals tribunal must give written notice of its decision to—
- (a) the member who is the subject of the decision to which the notice relates;
 - (b) the Standards Board;
 - (c) the standards committee of any authorities concerned;
 - (d) any parish council concerned; and
 - (e) any person who made an allegation that gave rise to the investigation.
- (8) The appeals tribunal must arrange for a summary of its decision to be published in one or more newspapers circulating in the area of any authorities concerned.

PART 4

AMENDMENTS TO REGULATIONS

26. The instruments specified in the Schedule to these Regulations are amended as specified in the third column of that Schedule.

Signed by authority of the Secretary of State for Communities and Local Government

John Healey
Minister of State

14th April 2008

Department for Communities and Local Government

SCHEDULE

Regulation 26

Amendments to Regulations

<i>Regulations amended</i>	<i>References</i>	<i>Amendment</i>
The Relevant Authorities (Standards Committee) Regulations 2001(a)	S.I. 2001/2812	<p>In regulation 1(2) omit the words “relevant authorities in England, other than parish councils, and to”.</p> <p>In regulation 2, omit the words “or 55(7)(a)” from the definition of “independent member” and omit the entry relating to “responsible authority”.</p> <p>For regulation 3 substitute—</p> <p>“3. An authority must ensure that, where its standards committee has more than three members, at least 25% of them are independent members.”.</p> <p>In regulation 7(1) for “paragraphs (2) to (4)” substitute “paragraphs (2) and (4)”.</p> <p>Omit regulation 7(3).</p> <p>In regulation 7(4) omit “60(2) or (3), 64(2)” in both places.</p>
The Local Authorities (Code of Conduct) (Local Determination) Regulations	S.I. 2003/1483	<p>In regulation 1(2) omit the words “relevant authorities in England and to”.</p>

(a) Regulation 7(1) was amended, and regulation 7(4) was inserted by regulation 3 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483); and regulation 7 was further amended by regulation 2 of the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006 (SI 2006/87).

In regulation 2(1)—

in the entry relating to “Adjudication Panel”, omit the words “in respect of a relevant authority in England, the Adjudication Panel for England established under section 75(1) of the Act and, in respect of a police authority in Wales,”;

in the entry relating to “authority” omit the words “a relevant authority in England and”;

omit the entries relating to “ethical standards officer” and “ethical standards officer concerned”;

omit the entry relating to “the parish councils concerned”;
and

in the appropriate place, insert the following—

Omit regulation 2(2).

Omit regulation 4.

In regulations 5, 6, 8, 9, 12 and 13, for the references to ethical standards officer (in whatever terms), substitute references to the Public Services Ombudsman for Wales.

In regulations 5(1), 6(1)(a)(i), 6(2)(b)(i) and 6(2)(c)(i) omit “64(2) or”.

In regulation 5(2) omit “60(2) or (3) or”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 53 of the Local Government Act 2000 ("the Act") requires relevant authorities in England and Wales (defined in section 49(6) of the Act) to establish standards committees to exercise functions conferred under Part 3 of the Act. Section 57A of the Act, (inserted with sections 57B to 57D, and section 58) by section 185 of the Local Government and Public Involvement in Health Act 2007 enables people to make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former member or former co-opted member) of the authority has failed to comply with the authority's code of conduct. These Regulations make provision for dealing with such allegations and confer powers on the monitoring officer of the relevant authorities concerned to carry out investigations. They also make provision for standards committees to reach decisions on allegations and to impose sanctions, and for appeals to tribunals of members of the Adjudication Panel for England ("appeals tribunals").

Regulations 1 to 3 contain citation, commencement and interpretation provisions.

Regulation 4 requires standards committees to consist of at least 25% independent members and restricts the number of members of the executive of authorities operating executive arrangements who may be members of the committee. Where an authority is responsible for parish councils it is a requirement that at least two members of the standards committee are parish councillors who are not also members of the responsible authority.

Regulation 5 makes provision as to the appointment to standards committees of independent members and parish councillors. The effect of paragraphs (3) and (4) is to permit standards committees to appoint persons who are independent members of the standards committees of other authorities for specified periods of time, or to sit on a committee or sub-committee considering a particular allegation or set of allegations.

Regulations 6 and 7 require standards committees to establish sub-committees, each chaired by an independent member, to undertake the initial assessment of allegations under section 57A of the Act. Differently constituted sub-committees, chaired by different independent members, must also be established to consider any request under section 57B of the Act to review decisions to take no action in respect of allegations made under section 57A of the Act. Standards committees may decide to establish sub-committees to consider reports or hold hearings, which must also be chaired by an independent member. At least three of its members must be present at meetings of a standards committee, or sub-committee of a standards committee, which must include at least one elected member of the authority. If a meeting is convened to consider an allegation against a parish councillor, the committee or sub-committee must include a parish councillor drawn from any of the parish councils for which the authority is responsible who is not also a member of the responsible authority.

Regulation 8 makes provision as to public access to meetings and documents of standards committee proceedings. Where a sub-committee of a standards committee is considering an allegation against a member under section 57A of the Act or a request under section 57B of the Act to review a decision to take no action, there is no public right of access to the meetings or documents. The sub-committee is required to produce a written summary of its consideration of those matters, which is to be made available to the public. Otherwise, the proceedings of standards committees and sub-committees of standards committees are to be open to the public in a manner similar to that in which other proceedings of local authorities are made open (see Part 5A of the Local Government Act 1972 (c. 70)). Standards committees of responsible authorities are required to supply certain information and documents to the parish councils for which they are responsible.

Regulation 10 requires standards committees to publicise the address or addresses to which written allegations of misconduct should be sent and to keep published details up to date.

Regulation 11 modifies the duty otherwise applicable to standards committees to give a written summary of an allegation to the subject of that allegation in situations where it would be contrary

to the public interest or would prejudice an investigation to provide that summary. In circumstances where a standards committee is not required to provide a written summary of an allegation at the time it receives the allegation, it must provide a written summary to the subject of the allegation before any hearing is convened under regulation 17 or 18 to consider any report on the allegation.

Regulation 12 prohibits monitoring officers from disclosing information they have obtained either through their investigation, or which has been supplied to them by an ethical standards officer, otherwise than for the purposes set out in section 63 of the Act, as modified by regulation 12. The modification authorises disclosure of information obtained for the purpose of enabling a standards committee, sub-committee of a standards committee or an appeals tribunal drawn from the Adjudication Panel for England, to perform any of their functions under Part 3 of the Act or Regulations made under that Part.

Regulation 13 makes provision in respect of cases where a sub-committee of a standards committee or ethical standards officer refers a matter to a monitoring officer with a direction to take steps other than carry out an investigation. A direction may require the monitoring officer to arrange for a member to attend a training course, to engage in a process of conciliation or to take such other steps as appear appropriate. The monitoring officer must report back to the standards committee or ethical standards officer and the regulation makes provision as to the steps they must take when they receive such a report.

Regulation 14 makes provision for monitoring officers to carry out an investigation into an allegation that a member or co-opted member (or former member or former co-opted member) has failed to comply with an authority's code of conduct. It makes provision as to who must receive notice that the matter has been referred for investigation, and confers powers on the monitoring officer to request information or an explanation of matters from any person and to require authorities to provide advice and assistance. The monitoring officer may apply to refer a matter back to the ethical standards officer who originally referred it and the ethical standards officer must notify the monitoring officer whether the referral back is accepted. Following an investigation, the monitoring officer must submit a report to the standards committee indicating whether in the opinion of the monitoring officer the person who is the subject of the report has failed to comply with the authority's code of conduct.

Regulation 15 requires a monitoring officer to send a copy of a report received from an ethical standards officer following an investigation, to the person who is the subject of the report and to refer the report to the standards committee for consideration under regulation 17.

Regulation 16 sets out the circumstances in which a monitoring officer may refer a matter back to the standards committee for reconsideration as to how an allegation that a person has failed to comply with an authority's code of conduct should be dealt with. The circumstances are:

- (a) the receipt of new evidence or information that leads the monitoring officer to form the opinion that the matter is more (or less) serious than may have appeared to the standards committee and that the standards committee would have made a different decision if the evidence or information had been available to them;
- (b) the death or serious illness of the person against whom the allegation was made; and
- (c) the resignation of that person from the authority concerned.

Regulations 17 deals with a standards committee's consideration of reports received from monitoring officers. The committee must make one of the following findings:

- (a) that it accepts the monitoring officer's findings that there has been no failure to comply with an authority's code of conduct;
- (b) that the matter should be considered at a hearing under regulation 18; or
- (c) that the matter should be referred to the Adjudication Panel for England for determination.

The regulation also imposes requirements as to notification and publication of its findings.

Regulation 18 deals with the procedure for the holding of a hearing. At any time before the conclusion of a hearing, a standards committee may, where the case under consideration has been investigated by an ethical standards officer, ask that ethical standards officer to take it back for further investigation. If the ethical standards officer does not agree to the referral the standards committee must continue with the hearing.

Regulations 19 and 20 makes provision as to the findings available to a standards committee following a hearing, the sanctions which it may impose on a person if it finds that the person has failed to comply with an authority's code of conduct and the manner in which those findings are to be notified and publicised.

Regulations 21 allows a person against whom a failure to comply with an authority's code of conduct has been made to seek permission from the president or deputy president of the Adjudication Panel for England to appeal against the finding and any sanction imposed, and to apply for the suspension of any sanction.

Regulations 22 to 25 deal with the conduct of appeals, the composition of appeals tribunals, the procedure to be followed and the notification of, and publicity to be given to, decisions of appeals tribunals.

Regulation 26 and the Schedule to the Regulations amend the Relevant Authorities (Standards Committee) Regulations 2001 (SI 2001/2812) and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483). The effect of the amendments is to disapply those Regulations in respect of English authorities. They continue to apply to police authorities in Wales.

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By: The Director of Law and Governance

To: Standards Committee – 30 April 2008

Subject: NEW STANDARDS REGULATIONS – LONDON BOROUGH OF BROMLEY

Classification: Unrestricted

FOR DECISION

1. It would appear that the new Draft Regulations permit Standards Committees to appoint Independent Members from other Standards Committees to deal with specific allegations or complaints.
2. I have been approached by the London Borough of Bromley who have suggested that this could represent a pragmatic way of dealing with availability/conflict of interest without the need to embark on wide-scale recruitment.
3. Initially I am seeking Members' views on whether they would be prepared to cover sharing Independent Members in appropriate circumstances.

4. Recommendation

Members' views are sought.

Geoff Wild
Director of Law and Governance
Tel: 01622 694302

Background Documents: None

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By: Head of Democratic Services and Local Leadership

To: Standards Committee – 30 April 2008

Subject: SURVEY RESULTS: BMG SATISFACTION WITH THE
STANDARDS BOARD FOR ENGLAND AND ATTITUDES TO
THE ETHICAL ENVIRONMENT

Classification: Unrestricted

Summary: This report summarises the results of the qualitative research
undertaken by the BMG during November and December 2007.

FOR INFORMATION

1. Attached to this report for Members' information are the results of a qualitative research undertaken during November and December 2007.

2. Recommendation

Members are asked to note this report.

Peter Sass
Head of Democratic Services and Local Leadership
Tel: 01622 694002

Background Documents: None

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Satisfaction with the Standards Board for England and Attitudes to the Ethical Environment: Qualitative Investigation following Quantitative Survey

This report summarises the results of qualitative research undertaken during November and December 2007. Six standard focus groups and one on-line focus group were held England-wide, capturing the views of monitoring officers, standards committee chairs and members, councillors, and parish councillors. These groups explored in some depth issues arising from a postal survey of stakeholders conducted earlier in 2007¹.

The findings of this research concur strongly with much of the previous, quantitative study. Again, much of the feedback is very positive, with strong support expressed among all stakeholder groups for the Code of Conduct and much satisfaction with local standards committees and the performance of monitoring officers. There is also a great deal of satisfaction with key Standards Board publications.

1.1.1 The link between stakeholders' satisfaction and relationship with the Standards Board

A key area of additional insight which the focus groups bring is a deeper understanding of the link between satisfaction with the Standards Board and stakeholders' perceptions of the closeness (or remoteness) of the relationship between themselves and the organisation. Stakeholders who express the most positive views of the organisation tend to work closely with the Standards Board and the Code of Conduct. They receive more publications and attend more Standards Boards events than those who have more negative views. Typically those with the most positive views are monitoring officers and members of standards committees. They also tend to feel that the reputation of the Standards Board is gradually improving over time.

¹ BMG 2007

<http://www.standardsboard.gov.uk/Aboutus/Research/filedownload.6462.en.pdf>

In contrast, those who have minimal direct contact with the Standards Board, or feel 'remote' from it, are more likely to hold a neutral or more negative view. Those whose relationship with the Standards Board tends to be weakest are backbench councillors, parish councillors and Conservative members. Some in these groups feel they derive little personal benefit from the existence of the Standards Board and resent what they sometimes see as its needless interference in their voluntary work for the community. Even some of the standards committee members consulted feel somewhat detached from the Standards Board, since they feel the only link between the Standards Board and their committee and authority is their monitoring officer. Those members of standards committees who feel least well informed about the Standards Board are lay members, as opposed to elected members.

It seems that length of involvement with the Standards Board may be linked with satisfaction. Long-standing members of standards committees have much more positive views of the Standards Board than those who have been appointed more recently. This is because they have a greater familiarity with, and confidence in, the organisation's guidance and procedures. Long-standing councillors tend to have more positive views of the Standards Board than those councillors who have been elected more recently.

Stakeholders who feel they have a distant relationship with the Standards Board are more likely to base their views on myth rather than personal experience. Their perceptions seem to be constructed largely from local hearsay and local, and to a lesser extent national, media reports. It seems that media coverage of the very high profile Livingstone and Islington cases has not been a key driver of dissatisfaction with the Standards Board among most stakeholders. Stakeholders believe that the general public's perceptions of behaviour among elected members are based on media outputs, particularly negative stories in local newspapers. It was suggested that the Standards Board needs to publicise its work much more widely in order to meet what some see as its objective of enhancing the reputation of local government among the public.

1.1.2 Criticisms of the Standards Board

Criticisms of the Standards Board expressed by some respondents to the quantitative survey were also made in the focus groups. These include a perception that the organisation has, at least in the past, been overly-bureaucratic and has spent too much time and money investigating allegations which were frivolous and

unfounded ('sledgehammer to crack a nut'). Conversely, others criticise the Standards Board's decision in a large proportion of cases not to investigate, because it is deemed there is 'no case to answer' ('toothless tiger'). Across the groups there is much concurrence that many allegations received by the Standards Board are petty complaints made out of spite by a political opponent or by someone who does not properly understand the organisation's purpose or the Code of Conduct.

Parish councillors and others who have had a complaint made against them at some point are least satisfied with the performance of the Standards Board, especially with its corporate reputation and investigations. Some of the parish councillors consulted feel strongly that they are over-regulated by bodies such as the Standards Board. They also feel that the Standards Board has failed to understand that parish councils have a different way of working from that of other types of local authorities.

1.1.3 Standards of member behaviour

Many respondents feel that the behaviour of elected members has improved to some degree since the Standards Board has been in existence. Some feel that the improvement has been dramatic. Others feel it has been less so, simply because they believe behaviour in their authority has always been exemplary. It is widely held that most elected members and parish councillors are honest and have considerable integrity. It is felt that most of those who have had an allegation made against them upheld have unintentionally fallen foul of the Code, by not being fully aware of the rules. Those who are most likely to feel that standards of behaviour have stayed the same or even worsened are backbench or parish councillors. Given that in the future the majority of authorities will be investigating at a local level it will be interesting to see if the same criticism is levelled at local authorities.

Since the Standards Board has been in existence, many feel that there has been a marked reduction in examples of serious and flagrant misbehaviour such as misuse of authority resources for election campaigns and abuse of expenses. However, most obvious say respondents, is a more respectful use of language during meetings, less bullying behaviour and prejudicial interests now being disclosed routinely at meetings. The reason given by most for the perceived improvement in member behaviour is the existence of the Code of Conduct and high levels of awareness of the rules of behaviour. Several members of standards committees believe behaviour in meetings has

improved because meetings are now observed by at least one member of the standards committee. This means that anyone behaving inappropriately can be warned informally, before an official complaint is made. Monitoring officers also suggest that political parties' own discipline has also kept members' behaviour in check. Scrutiny committees are also considered to have improved ethics with regard to the decision making process. It was suggested that inappropriate language is more likely to be used in meetings if no one party has overall political control.

Respondents feel that member behaviour worsens at election time and during heated debates such as those which are part of the budget setting process. Meetings discussing the possible closure of local facilities were also mentioned as likely to produce inappropriate language by members. Participants also comment that member behaviour tends to deteriorate during fiery meetings which are not chaired sufficiently strictly or are attended by newspaper journalists.

As was found in the quantitative research, there is much disappointment expressed that the general public have not noticed any improvement in the behaviour of local councillors. Participants feel this is mainly due to press interest, particularly by local newspapers, in printing allegations of misbehaviour, but not necessarily drawing attention to decisions of 'no case to answer' or where the accused has been found not to be in breach of the Code of Conduct.

1.1.4 Ethical framework changes

All groups say they were fairly well prepared for the changes to the ethical framework in 2007. Most of those consulted say they have received good or adequate training or induction on the revised Code of Conduct, either from their monitoring officer, from an external consultant or at a Standards Board event. Monitoring officers however, say they would have liked to have had more time to prepare for its introduction. Most useful preparation for backbench councillors, parish councillors and members of standards committees was face-to-face training, conducted usually by their monitoring officer, consolidated with publications from the Standards Board or written materials based on these. Elected members say they receive so much reading material from numerous sources, that it is difficult to recall which piece of written guidance was most useful in preparing them for the 2007 Code. Monitoring officers value most highly the opportunity to learn about the changes face-to-face, at Standards Board roadshows and the Annual Assembly.

Some have also been supported by monitoring officers in neighbouring authorities.

1.1.5 Code of Conduct 2007

There is very little real dissatisfaction with the Code of Conduct 2007 among any of the stakeholder groups. Most respondents feel that although the changes were fairly minor, it is now clearer, more comprehensive and demonstrates more common sense than the original Code. In particular, respondents appreciate greater clarification and tighter definition of terms. Respondents also support councillors' new freedom to speak at meetings when they have a prejudicial interest.

Backbench councillors and parish councillors seem to struggle most with interpretation of parts of the Code of Conduct. Some find it especially difficult to explain the new rules to their constituents. It is clear that some councillors and many of the parish councillors have not received, or not absorbed, sufficient training on the new Code. In particular, they are still unsure about what they are and are not allowed to say in meetings, especially at planning committees. Some also question the suitability of a single Code of Conduct for every type of authority.

1.1.6 Local assessment

Most stakeholders are aware to some extent of local assessment which will apply from April 2008. Least aware of the implications of this are those whose relationship with the Standards Board is weakest, namely some of the backbench and parish councillors. The move to filtering cases and investigating most of them locally is broadly welcomed. Respondents feel it is sensible for local standards committees to handle all but the most complex cases, freeing up the Standards Board to move towards a role of strategic regulator and 'critical friend'. Monitoring officers also feel that local assessment will improve the speed of case resolution and allow them more flexibility in resolving complaints. However, there is concern that local assessment will mean a vastly increased workload for monitoring officers and standards committees – especially those with large numbers of parish councils, which are believed by all stakeholder groups to be the source of the majority of complaints. Some standards committees expect that they will need more members to handle the work. Conversely, some feel that standards committees which handle few cases will not build up sufficient experience to handle any which do arise, on their own. Monitoring officers also foresee possible conflicts of interest for elected members and

for themselves, as well as damage to working relationships with members. A few participants feel local assessment will result in more allegations being made. Conversely others believe that it will result in fewer allegations – because the monitoring officer may be able to resolve complaints before an official complaint is made.

Monitoring officers and some members of standards committees are concerned about the costs of conducting investigations locally. They say it has been extremely difficult to set a budget for this because they do not know how many allegations will be made and how many they will need to investigate.

There is much less preparedness for the local assessment, amongst members of standards committees. Although many have heard much about the local assessment at the Standards Board conference, they comment that the regulations and procedures around handling cases are not yet finalised. They are concerned that once this happens, they may not have enough time to digest them and put them into practice. In conclusion, respondents are reserving judgement on local assessment until they have had time and opportunity to see how it works in practice.

1.1.7 Support and guidance

Monitoring officers are very satisfied with communications with the Standards Board. Some commented that the standard and clarity of Standards Board publications has improved in recent years. The number of publications received, and satisfaction with them, varies enormously among the other stakeholder groups. Long-standing members of standards committees are most satisfied and receive more Standards Board publications – all from their monitoring officer. Some respondents also seek clarification and guidance by telephone. Those newly-appointed to standards committees, backbench councillors and parish councillors seem to have received, recall and read far fewer Standards Board publications. In fact, because they receive so much written information from various sources, some seem to find it difficult to remember which documents have originated from the Standards Board.

Standards Board publications are said to reach councillors via their monitoring officer, or town clerk in the case of parish councillors. Some are comfortable with this, since they trust that the monitoring officer or town clerk provides them with all the information and guidance they need, and will often help to put this into

the local context for them. Others feel their understanding of the Code of Conduct is lacking and would like to see more of the publications produced by the Standards Board. Some respondents feel uneasy that the Standards Board seems to rely solely upon monitoring officers to cascade all relevant information to members.

Some of the backbench councillors did not recall receiving any Standards Board publications apart from *The Code of Conduct 2007: Guide for members* until prompted with them during the discussion. It is clear that some of these respondents do not regularly read carefully or refer to Standards Board publications, but keep them on file in case they are needed in future. They would welcome being reminded of the key points of the Code of Conduct. Many parish and backbench councillors are satisfied with the publications they receive, but would like to receive more of them, or at least know of their existence and know where they can be obtained. Very few are aware that they can be downloaded from the Standards Board's website. Many would be happy to receive publications directly from the Standards Board, either in addition to, or instead of receiving them from their monitoring officer or town clerk.

Some of the parish councillors indicate that many of their number are either unable to understand the Code of Conduct fully, because of the difficult terminology used, or consider it irrelevant to their role. Some also complain that much of the information received from the Standards Board is not relevant to parish councils.

Most participants like the formats of the publications they have seen and consider them to be relevant, concise, clear and useful. Most respondents prefer to read a hard copy rather than online versions, although they say information must be concise in either format. *The Code of Conduct 2007: Guide for members* is the Standards Board publication which most respondents have seen and find most useful. In fact several respondents brought this booklet to their meetings as an example of clear guidance (received from any source). Those who have received *The Code of Conduct 2007: Pocket guide* were also extremely impressed with this. Fewer respondents recalled spontaneously reading *The Case Review, Town and Parish Standard, Occasional Paper* and *To Higher Standards*, but all those who did were very satisfied with them. Respondents also brought these publications to the groups as examples of clear communication. Some respondents are aware that they receive other publications and guidance from the

Standards Board but could not recall their titles. Monitoring officers and members of standards committee members say they find the *Bulletin* useful. They like its format and conciseness.

1.1.8 Clarity

Those who are most familiar with Standards Board publications feel that they are as clear and easy to read as they can be. Readers like the use of plain English, occasional humour, text in columns, large and bolded fonts, bright colours and the use of bullet points, boxes and white space to break up the text and flow charts to describe processes visually. The Q & A format is also considered easy to read.

When prompted on the subject of clarity, some stakeholders, notably backbench and parish councillors, commented that sometimes text is a little too 'wordy', that the subject matter itself is difficult, and that layouts could be more user-friendly. It was also noted that some documents lack an executive summary which would aid understanding. Some feel that the perceived lack of clarity identified in the BMG Research survey conducted in early 2007 could refer to 'grey areas' of the original Code, which have been clarified in the revised 2007 version. It also seems possible that some respondents are confusing documents originating from other sources with those from the Standards Board. Further, it was suggested that Standards Board publications seem clearer to long-standing members of standards committees than to those, particularly lay members, who have been appointed more recently and are not as well informed.

All respondents concur that what they want from Standards Board publications is clear guidance and illustrative examples and case studies. They expect publications to be well laid out, concise and easy to read, so that the salient points can be easily extracted. With a few exceptions, all types of respondents prefer to receive a large number of short factsheets dealing with one issue at a time than a small number of long detailed documents. Across all of the groups, and especially amongst older respondents, there is a clear preference for hard copies rather than electronic versions.

1.1.9 Standards Board's website, DVDs and events

Monitoring officers use the Standards Board's website regularly and are satisfied with it. Few members of the other groups have seen the website – either because they are unaware of its existence or because they

prefer to read hard copy documents. Those who have looked at it have mixed views on its usability. In contrast with monitoring officers, some comment that they have found it difficult to find what they were looking for on the website and that this lack of accessibility adds to the feeling of remoteness from the Standards Board. Only one respondent has noticed that the website has changed recently – although he was not able to recall exactly what the changes had been.

There was widespread praise for the two Standards Board DVDs which many respondents have seen. The most recent one, illustrating a hypothetical planning meeting was considered especially interesting and useful. Standards Board roadshows and the Annual Assembly are also extremely popular methods of disseminating information, especially among elected members. Respondents also find the break-out sessions and written materials provided at these very useful.

1.1.10 Suggestions for ways of improving support and guidance

The most popular suggestion for improvement of communications was more provision of bespoke publications (with relevant examples and digests of case studies) for particular audiences, particularly parish councillors and for those whose authority is a police, fire, parks or passenger transport authority – rather than a local authority. Parish councillors would like simplified and shorter versions of the documents, which relate only to the work of parish councils. They suggest the publications aimed at them should follow the simple, plain English, bullet-point style of the *Code of Conduct: Pocket guide*. They also suggest that new publications should be piloted in a small number of parish councils before being rolled out nationwide. Monitoring officers were especially keen to see more events and training geared towards the needs of parish and town councillors.

Despite wanting to avoid being overloaded with paperwork, backbench councillors and parish councillors in particular feel the Standards Board should make more effort to make them aware of all of its publications, and signpost them to where they can be obtained. Some feel that publications, at least the principal documents, should come direct from the Standards Board, rather than via the monitoring officer or town clerk. Participants stress that any documents available for download from the Standards Board website should be in an easily printable format. As in the quantitative survey, it was also suggested that the

website be made more easily 'searchable' for case histories.

Backbench councillors suggested that the Standards Board should inform them of what they can expect to happen if an allegation is made against them. They would also like to know what rights a councillor has during the process and what help and support the Standards Board can provide. Many of those who have been subject to a complaint feel that there should be more publicity for cases where it is deemed there is no case to answer, or the case is not upheld. Many also feel strongly that action should be taken against those found to be making false and malicious complaints.

Another popular spontaneous suggestion among backbench councillors, was the idea of Standards Board staff contributing articles in magazines which they already read regularly as part of their role. They suggest *Councillor Magazine* and *Local Government First* as suitable titles.

Monitoring officers would like the Standards Board to provide information and guidance on major changes with improved timeliness. They also suggested that conferences could be shortened and some roadshows tailored for monitoring officers. More regional training events, perhaps held on Saturdays, were also suggested by other groups. Many of the standards committee members and parish councillors also suggested that visits from Standards Board staff to their meetings would help to reduce the perception of the organisation's remoteness. It was also suggested that the Standards Board could facilitate opportunities for members of standards committees to visit neighbouring standards committees to share ideas and best practice.

Finally, it was also suggested that the Standards Board should improve accessibility and transparency by publicising the names, photographs and contact details of key staff whom respondents may have contact with. Some monitoring officers state explicitly that Standards Board staff should make more efforts to develop a closer relationship with them. Many respondents would also like the Standards Board to raise awareness of its role and remit among the general public, and among backbench and parish councillors. In particular, details of how to make a complaint and an outline of the investigation procedure would be welcomed by parish and backbench councillors.

For more information, please contact: Susie Price, BMG Qualitative Researcher, tel: 0121 333 6006

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By: Head of Democratic Services and Local Leadership

To: Standards Committee – 30 April 2008

Subject: CONSULTATION PAPER ON ORDERS AND REGULATIONS
RELATING TO THE CONDUCT OF LOCAL AUTHORITY
MEMBERS IN ENGLAND

Classification: Unrestricted

Summary: This report gives a summary of responses received by the
Department for Communities and Local Government (DCLG).

FOR INFORMATION

- (1) Members will recall that at their meeting on 22 January 2008 the Committee agreed a response to the Government Consultation Paper be submitted to the DCLG.
- (2) I attach a summary of all responses received by the DCLG.

7. Recommendation

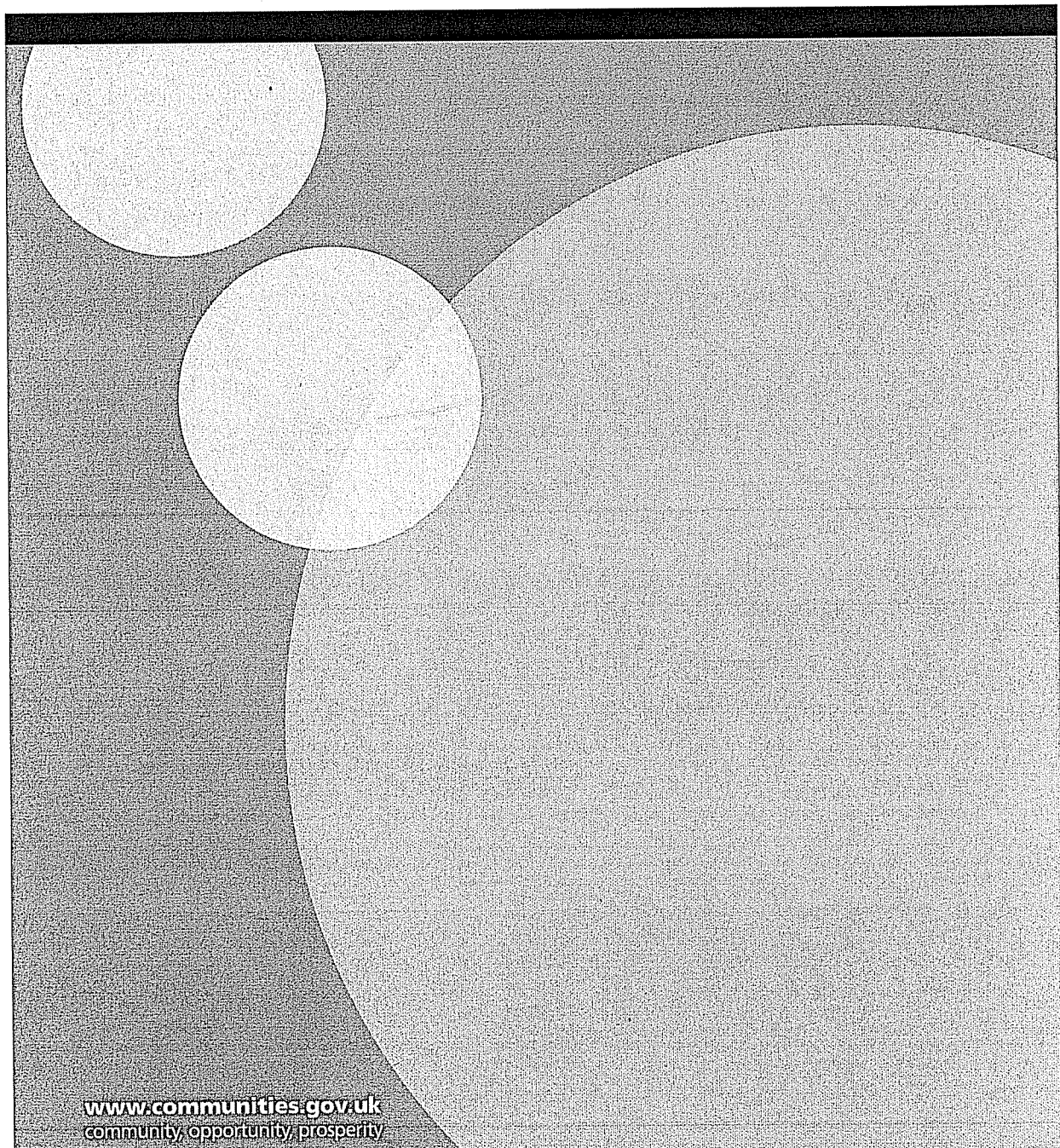
Members are asked to note the summary of responses.

Peter Sass
Head of Democratic Services and Local Leadership
Tel: 01622 694002

Background Documents: None

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Consultation Paper on Orders and Regulations Relating
to the Conduct of Local Authority Members in England
Summary of responses received





Consultation Paper on Orders and Regulations Relating
to the Conduct of Local Authority Members in England
Summary of responses received

April 2008

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Background

In January 2008, the Department for Communities and Local Government published its '*Orders and Regulations Relating to the Conduct of Local Authority Members in England*'¹ consultation paper. The paper sought the local government world's views on the detailed provisions to be included in orders and regulations, deriving from Part 10 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act"), to put in place the revised more locally-based conduct regime for local councillors in England.

This document summarises the 571 responses that the Department received to its consultation paper and sets out the Government's response to those comments and issues raised by consultees.

Numbers of responses received

Principal authorities	310
Parish/Town Councils	222
Individuals	19
Organisations etc	3
Representative bodies	17
	<hr/>
	571

General comments

Responses were largely supportive of the devolved conduct regime. On the proposed requirement for authorities to publicise the new conduct regime, so people are aware of the local arrangements for making a misconduct allegation, some respondents raised concerns about the resource impact on authorities with a large number of parish councils in their areas. It was suggested that standards committees from neighbouring authorities might be able to cooperate in publishing the information.

¹ Available on the Department's website at <http://www.communities.gov.uk/publications/localgovernment/laconduct>

Responses to individual questions

Question 1

- i) Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach?**

Consultees' views

Most respondents including the Standards Board and the Association of Council Secretaries and Solicitors ("ACSeS") agreed that the proposal would provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach. They accepted that to avoid conflicts of interest, members involved in the initial assessment of an allegation should not participate in any subsequent review of a decision to take no action. However, most respondents did not agree that a conflict of interest necessarily arose between initial assessment or review of a decision to take no action and any subsequent determination hearing.

Some authorities felt that in order to ensure there was no opportunity for conflict it was preferable that no member should be involved in more than one stage of the process, so that each separate stage of the processing of the allegation should be conducted by a separate sub-committee of the standards committee, each with a different membership.

Government's response

The Government proposes, in order to avoid conflicts of interests, to provide that members involved in the initial assessment of allegations should not be involved in any subsequent review of the initial decision to take no action. We appreciate the view of many consultees about the need to minimise opportunities for conflicts of interest. However, we take the view that a conflict does not necessarily arise between the initial assessment or review stages and the subsequent determination hearing. We do not therefore intend to proscribe a member who has been involved in the initial assessment of an allegation or a review of a decision to take no action from being involved in any final hearing.

ii) Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Consultees' views

There was general agreement that the proposal for the different stages of the handling of allegations to be undertaken by sub-committees was appropriate.

Government's response

The Government proposes to provide that the initial assessment and review stages should be carried out by separate sub-committees, and that the hearing stage may be undertaken either by a further sub-committee or the standards committee itself, as the local authority may decide.

Question 2

Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Consultees' views

Most respondents agreed that it would be appropriate for standards committees to agree between themselves on which standards committee should deal with the allegation.

Some respondents suggested the Standards Board should have an adjudication role where authorities could not decide which of them should deal with a particular allegation where more than one authorities have an interest. However, others, including the Standards Board, felt that, in the spirit of the devolution of decision-making to standards committees, that it was preferable for decisions on the handling of cases to be done by authorities themselves, taking into account guidance the Standards Board will provide on the appropriate handling of cases.

There was some concern that authorities would not know when an allegation had been made to another authority and it would therefore be helpful to have a system of notification to allow authorities to be aware of allegations made to other authorities.

Government's response

In line with the views of consultees, the Government will provide for decisions on the handling of cases in which more than one authority has an interest to be matters for local agreement, taking into account guidance from the Board.

Question 3

Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Consultees' views

Authorities generally agreed that the timescale for standards committees to make initial assessments should be a matter for guidance rather than for a statutory limit to be applied. Authorities also generally agreed that the 20 working days is an appropriate guideline for this process. However, any guidance issued by the Standards Board should take into account that there can be exceptions, to reflect local circumstances where it might be necessary for the guideline to be exceeded. The Standards Board will monitor the performance of authorities on the time taken to make their assessments and provide support to them where necessary.

Government's response

In line with consultees' views, we will allow for the timescale for making initial assessments of allegations to be a matter for the Standards Board's guidance, which will allow for the flexibility to take local circumstances into account. A statutory time limit will not therefore be imposed via regulations.

Question 4

Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Consultees' views

Most respondents agreed with the circumstances identified which would justify a standards committee being relieved of the obligation to provide a summary at the time the allegation is made, ie where the disclosure of information may result in evidence being compromised or destroyed or where there is the possibility of intimidation of the complainant or witnesses by the subject of the allegation.

Some authorities however took the view that the withholding of the information from the subject of the allegation appeared contrary to the intention of Part 10 of the Local Government and Public Involvement in Health Act 2007 and the principle of natural justice to allow the subject of the allegation to be informed of the allegation made against him or her at an early stage. Some thought the rules would not allow the standards committee to delegate the function of informing the member to an officer, so the committee would therefore have to take this decision by resolution at a meeting which would possibly need to be the meeting at which the initial assessment is undertaken. Some, including ACSeS, thought that guidance rather than regulations should provide for the withholding of information about the identity of the complainant or witnesses in the cases where intimidation or interference with evidence was suspected.

Most respondents took the view that there were no other circumstances which would justify the withholding of information.

The Government's response

In line with the views of consultees, we will make provision for the summary of the allegation to be withheld from the subject of it in the circumstances we have indicated. We appreciate the views of some consultees about the need for the subject of an allegation to be made aware of the allegation at an early stage. We propose to allow therefore for Standards Board guidance to include good practice with regard to the notification by the monitoring officer of the allegation to the subject when the allegation has been received, and for the statutory summary of the allegation to be provided by the standards committee at a later date.

Where there is a decision not to withhold the summary, it will be provided when the standards committee meets to consider the allegation. Where a decision is taken to withhold the summary, it will be provided when the monitoring officer or ethical standards officer has decided that a sufficient investigation has been undertaken, so the possibility of interference with evidence or intimidation of the complainant or witnesses would no longer be an issue with regard to the investigation.

Question 5

Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Consultees' views

Most respondents agreed with the proposal for the monitoring officer to be able to refer a case back to the standards committee. It was suggested that more flexibility would be provided if the circumstances and procedures for referring back were dealt in guidance rather than regulations.

Some authorities suggested that the discovery by the monitoring officer of further potential misconduct ought not to result in a referral back to the committee but would instead mean that a further misconduct allegation would need to be made to the committee.

One authority also suggested that the rules on referring a case back ought not to refer to 'terminal illness', since knowledge about whether an illness is terminal is not always known, and the rules might be extended to include people whose illnesses are seriously debilitating but not necessarily terminal. Decisions on whether a case should be referred back could be based on information on the person's health provided by the person's GP.

Some authorities felt that monitoring officers ought to be sufficiently experienced and knowledgeable to be able to use their own discretion on when to refer a case back to the standards committee rather than having the circumstances prescribed in legislation. They consider that this could allow undue influence to be brought to bear on the monitoring officer to refer the case back and allow the committee to pre-determine the case.

Government's response

The Government proposes to provide for monitoring officers to be able to refer a case back to the standards committee where as a result of new evidence the monitoring officer considers the matters is more serious or less serious than it appeared initially to the standards committee, and that the committee may have made a different decision had it been aware of the new information. We will also provide that the monitoring officer may also refer a case back where the person has died or is seriously ill, and the monitoring officer is of the opinion that, in the circumstances, it is not appropriate to continue with an investigation.

Question 6

Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

Consultees' views

There was overwhelming support for an increase in the maximum sanction the standards committee can impose.

Most respondents were content that the maximum sanction should increase from 3 months to 6 months suspension from office. Some authorities thought that a higher maximum sanction than this would be more consistent with the policy for the delegation of decision-making to the local level. Alternative sanctions were suggested, such as increasing the maximum sanction to 5 months, 9 months, 12 months, or 3 years.

Government's response

In line with the views of most respondents, the Government will provide for the maximum sanction available to the standards committee to increase from three months to six months suspension or partial suspension from office.

Question 7

Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Consultees' views

Some respondents were concerned about the potential impact of the requirement that chairs of standards committees and sub-committees should be independent, in particular the difficulty in obtaining independent members likely to be encountered by smaller or single-purpose authorities. They suggested that recruiting and retaining enough people to take on the role of independent members would not be easy. Some respondents suggested a

'pool' arrangement, to allow for independent members to be able to serve on one or more standards committees.

It was suggested by some that the use of independent chairs should therefore not be a strict requirement, but should be recommended by guidance as good practice, which could stress the need for all members to act impartially, and to leave the decision on which member should be the chair to the authority itself.

Government's response

The Government believes that public assurance about the robustness of decision-making under the revised conduct regime would be best promoted by providing that all standards committee or sub-committees of standards committees dealing with the initial assessment, review of decisions to take no action, or the hearing into the allegation should be chaired by an independent member. We do not agree that the necessary public trust in the quality of decision-making can be assured if the independence of the chair is left as a matter for guidance or good practice.

We will seek to address concerns by some authorities about difficulties in recruiting sufficient numbers of independent members by providing enough flexibility to allow the operation of a 'pool' of independent members, by which a member appointed through the usual route via advertising in local newspapers by one authority, could also be appointed as an independent member by any other authority, provided the latter authority was content that the prospective independent member was not a member, officer or relative or close friend of a member or officer of the particular authority.

Question 8

Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Consultees' views

Most authorities agreed with this proposal, given the personal nature of some misconduct allegations which may turn out to be groundless or vexatious. Some respondents stressed their concern about the potential misuse of information made in allegations, and the need to avoid the possibility of trial by media.

Some respondents suggested that the meeting of the standards committee should be publicised in the normal way under s100B of the Local Government Act 1972 together with an agenda which does not disclose the name of either complainant or member.

Government's response

Given the sensitive nature of the information likely to be the subject of a misconduct allegation, the Government considers there is a need to provide that arrangements for the initial assessment of allegations and any reviews of decisions to take no action will be exempt from the rules on access to information. However, in order to ensure the transparency of the process, we will provide that a written summary of the outcome of the meeting should be issued, with guidance on the content of such a summary being provided by the Standards Board.

Question 9

Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Consultees' views

The general view was that appropriate criteria had been identified. Some authorities were concerned that in some cases the reason for the failure to meet appropriate standards on the assessment of allegations would be lack of resources, for which authorities ought not to be penalised.

Respondents considered that no decision to suspend the standards committee's powers should be taken unless there has been prior consultation with the chair of the Standards Committee, the Monitoring Officer, Leader and Chief Executive. They also felt that there was a need for a process whereby a failing standards committee and/or monitoring officer is given reasonable opportunity to respond to criticisms and take remedial action before the power of revocation is used. The process will also need to deal with reinstating the power following revocation.

It was suggested that a criteria referring to 'failure to implement standards committee's decisions' was too vague and imprecise. Some suggested that a disproportionate number of successful appeals also be an indication of failings within an authority which might be added as an appropriate criteria for intervention?

Respondents stress the need for the Standards Board's response to so-called failing standards committees to be proportionate, for support to be given by the Board when committees are underperforming, and for the removal of the committee's powers to be used as a last resort.

Government's response

The Government will provide for regulations to set out criteria which the Standards Board will consider when making a decision to suspend a standards committee's powers. The question of suspension in any particular case will be a matter for the Board to decide, taking the listed criteria into account. We agree with consultees' views that there should be a strong focus on the Board's support for authorities in the improvement of their performance, and that committees' powers should only be suspended after the issue of appropriate notices allowing authorities opportunities to make improvements.

Question 10

Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs (from other authorities on whose behalf the Standards Board or local authority is acting) incurred by them, be effective in principle in supporting the operation of the new locally-based conduct regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Consultees' views

Most respondents felt that a charging regime could be effective in principle in supporting the operation of a locally based conduct regime. There was some concern that the limited resources available to standards committees could deter them from volunteering to undertake initial assessments of other authorities unless the cost of doing this was met.

The common view was that the level of fee should be a matter for local negotiation in order to recover actual costs.

Government's response

As we indicated in the consultation paper, the Local Government Act 2000 (as amended by the 2007 Act) makes no express provision for the imposition of charges with regard to the conduct regime. However, we appreciate the views of consultees that a charging regime, allowing the Standards Board and local authorities to recover the costs of undertaking initial assessment on behalf of other authorities, could be effective in assisting the operation of the conduct regime. We will consider the possibility of the introduction of a charging regime for this purpose, including options in respect of primary and secondary legislation.

Question 11

Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Consultees' views

Almost all of the authorities who responded said they would be interested in pursuing joint arrangements.

There was some concern, however, that there might be resistance to the idea of standards committees of neighbouring authorities, perhaps with different political complexions, sitting in judgement on council members.

Some authorities felt that joint arrangements would best be considered once the local framework is in place and has bedded down within the authority. Some thought it was preferable to allow time for some practical operation of the new regime pursuing joint arrangements.

Most respondents felt there was no need to limit the geographical area to be covered by a particular agreement. Geographical areas should instead be left for local decision, and the opportunity for a standards committee which is a leader in best practice, experience, ability and capacity to undertake the committee's role on behalf of another authority should not be restricted by geographical limits.

Most respondents agreed with the proposal that the requirement for a parish representative to be present at a joint committee would be satisfied, if a representative from any parish in the joint committee's area attends.

Government's response

In line with the views of consultees, the Government will provide for authorities to enter into joint arrangements with other authorities in order to undertake their responsibilities under the conduct regime, if they wish to pursue such arrangements. We will aim to introduce such provisions in due course once authorities have had time to embed the new arrangements for taking

ownership of decision-making on conduct issues locally and making initial assessments of misconduct allegations.

Question 12

Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Consultees' views

Most respondents were content with this proposal.

Government's response

The Government will extend the sanctions available to case tribunals to reflect the sanctions already available to standards committees.

Question 13

Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Consultees' views

Most respondents agreed with the proposal to allow ethical standards officers to withdraw references to the Adjudication Panel in the particular circumstances described in the consultation paper. One respondent suggested that the withdrawal should be subject to the consent of the President of the Panel.

Respondents also supported the proposal to provide for decision notices by case tribunals of the Adjudication Panel to have the effect of imposing the sanction decided rather than, as now, imposing a requirement on authorities to take action to impose the sanction.

Government's response

The Government will provide for ethical standards officers to be able to withdraw references to the Adjudication Panel in appropriate circumstances. We will provide that such a withdrawal will be with the consent of the President of the Panel, in line with similar procedures which apply in respect of the withdrawal of a court proceeding, and this would help to guard against the inappropriate withdrawal of a case.

Question 14

Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Consultees' views

Very few authorities had made decisions under the existing dispensation regulations. Those who had, had not felt inhibited from making decisions under these rules.

However, most respondents supported our proposals to amend the rules. It was suggested that to speed up decision-making, provision might be made for dispensation decisions to be made when necessary by the chairman of a standards committee or in his absence by a nominated member of the standards committee, rather than the full committee.

It was suggested there was need to remove existing ambiguities in the rules. In order for the dispensation power to be needed, the current Regulations require that the transaction of business "would otherwise be impeded...." and it is unclear whether this means "prevented" ie: there would not be a quorum, or merely "disadvantaged". It was suggested that it was also unclear whether there is one test or two ie: if there are more than 50% does the regulation immediately apply or does business also have to be impeded as a result?

It was suggested that a number of other issues ought to be considered when redrafting the regulations, ie:

- Whether the dispensation should be limited to that number of members of the majority party necessary to re-establish a bare majority, or should it apply to all members of the majority party.
- Whether there would be justification in reflecting the concerns of minority parties that they would be out voted, by providing for the rules to allow all members with prejudicial interests in the matter to be given a dispensation irrespective of party.

Government's response

The Government will consider the future of the dispensation regulations, including whether any amendments may be appropriate, having regard to the detailed comments made by consultees.

Question 15

Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Consultees' views

Those responding to this question took the view that it may not be possible for waste disposal authorities to use section 101 of the Local Government Act 1972 to arrange for the function of granting exemptions from political restrictions to be discharged by another authority. They suggested that amendments could in due course be made to the primary legislation to allow for the requirement to make decisions on political restrictions to be undertaken by the authority rather than by a standards committee, in cases where there is no requirement for the authority to have a standards committee.

It was suggested that, in addition to the waste authorities, Transport for London was also a body subject to the rules on political restriction, but not required to have a standards committee.

The West London Waste Authority was concerned that it appeared that the prescribed arrangements on maintaining lists of those subject to political restrictions regardless of whether or not there actually are (or likely to be) any matters to be dealt with. No applications under these rules had arisen in the last 20 years. It was suggested that it would be inappropriate for such an authority to be required to expend effort on making arrangements that are unlikely ever to be needed. Regulations should be limited to prescribing the arrangements that are to apply if applications are received for exemption to political restriction.

The East London Waste Authority suggested that the rules should allow them the option of establishing a committee to make decisions on this issue, or make arrangements with another authority to discharge this function on the waste authority's behalf.

Government's response

The Government will make provision for those authorities not required to have standards committees to be able to establish committees to undertake their role on making decisions on the exemption of certain posts from political restrictions. We will consider, in the light of responses to consultation, which authorities are subject to the rules on political restriction but not required to establish a standards committee, in respect of which these regulations will need to be made.

Question 16

Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Consultees' views

A majority of respondents felt that the Regulations should not come into effect on 1 April, as originally proposed, but should be postponed to enable guidance to be issued, training arranged and new administrative arrangements to be put in place, including arrangements for the recruitment of more independent members. Of the alternative implementation dates suggested by respondents, 1 May and 1 June were the most frequently mentioned.

Government's response

We appreciate the concerns of many respondents that 1 April 2008 was not a realistic implementation date and that further time is needed in particular for the new administrative arrangements to be put in place. Nevertheless, the Government is committed to implementing the changes as soon as reasonably

practicable. Our aim is therefore to seek to implement regulations to bring into effect the revised conduct regime for standards committees to undertake the initial assessment of allegations as soon as practicable after the local elections in May 2008, and for other regulations to be issued later in the year to implement further amendments to allow for joint working arrangements, provisions in respect of the Standards Board's powers to suspend a standards committee's initial assessment of allegations function, and to provide new sanctions for the Adjudication Panel.

We will consider further the issues raised by consultees in respect of the proposals on dispensations, the granting of exceptions from political restrictions and the maximum pay of political assistants. We intend, as appropriate, to make further regulations and orders to address these matters in the course of 2008. We will also consider further a possible charging regime for the Standards Board and local authorities. Implementation of such a regime would require new primary legislation.