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STATUTORY INSTRUMENTS

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2008 No. 1085

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Standards Committee (England) Regulations 2008**

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| <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;

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(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;

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(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;

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(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; and
- (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

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(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.