



Special Standards Committee

8 May 2008

Local Initial Assessment of Complaints

Summary of Report

Further to a report received by the Standards Committee on 26 March 2008, the Standards Committee (England) Regulations 2008 were laid before parliament on 17 April 2008 changing the ethical governance arrangements. The regulations will come into force on 8 May 2008, giving local authorities a very small lead in time.

From this date onwards the Standards Committee will be responsible for receiving allegations and deciding whether any further action needs to be taken relating to alleged breaches of the Code of Conduct, reviewing those decisions where requested to do so and where necessary holding hearings to assess if a breach of the code has occurred.

Due to the very short lead in time this report has been brought before a special meeting of the Standards Committee which details recommendations for action.

Recommendations

- (1) That the content of the report be noted;
- (2) That the Standards Committee recommends to Council that
 - a. three sub-committees be appointed for 2008/09, as referred to in the body of this report,
 - b. each of the sub committees
 - i. be populated, as and when required, from members who have been appointed to the Standards Committee

- ii. are chaired by an independent member
 - iii. have a quorum of 3 and maximum membership of 5
 - c. That a member who has determined an initial assessment cannot sit on a sub committee convened to review an earlier decision they were party to making
 - d. the amended terms of reference for this committee (as detailed in Appendix A) be adopted.
- (3) That the Assistant Director of Legal and Constitutional Services be delegated responsibility to produce and implement such templates and procedures as he considers necessary to ensure that that new regulations can be complied with, in the event a complaint is received before they can be considered by the Standards Committee.
- (4) The Assistant Director for Legal and Constitutional services secure training for all members of the Council upon the changes and for members of the Standards Committee upon implementing the changes.
- (5) That the notice (appendix B) be publicised as set in the report.

Resource and legal considerations

Finance

The cost of convening meetings and investigating complaints will be borne by existing budgets. At stage this it is difficult to quantify how many complaints may be received and of those how many may require external investigation. The situation will be monitored and if necessary a further report will be brought

Legal

The legal implications are contained within the body of the report.

Citizen impact

Citizens already have the right to make a complaint alleging a breach of the code of conduct to the Standards Board of England (SBE). The new regime will bring that decision making to local level.

Environmental impact

None arising from this report.

Performance and risk management issues

None arising from this report.

Equality implications

None arising from this report

Consultation

None

Background papers

All published

Signed:

Assistant Director of Legal and Constitutional Services

Date: 28 April 2008

Contact Officers

Bhupinder Gill
Assistant Director for
Legal and Constitutional Services
☎ 01922 654820
✉ gillb@walsall.gov.uk

Background:

In March 2008, the Government consulted on a set of draft proposals relating to the new arrangements for processing complaints of alleged breaches of the Code of Conduct. Whilst it was widely known that new regulations would be brought in to bring about local determinations the actual timing has been vague as many dawns have announced but passed without note.

Without notice, regulations implementing the above were laid before parliament on 17 April 2008 and will come into effect from 8 May 2008.

Summary of New Arrangements:

The regulations require that each Standards Committee must publish details of how and to whom written complaints alleging a breach of the Code of Conduct should be submitted to for their due consideration. The SBE have produced a draft notice which is utilised for the purposes of complying with this requirement and is attached as appendix B. It is proposed that this will be advertised in a local newspaper, the councils website and on display in council offices with other information documents.

The SBE will be producing in due course template documentation and procedures to assist local Standards Committees in making determinations to ensure that there is consistency across the country and a toolkit. As and when the toolkit is available, it is proposed to bring that to a meeting of the Standards Committee for approval. In the event that such a toolkit is slow in arriving, the Standards Committee is requested to delegate and authorise the Assistant Director of Legal and Constitutional Services to produce such templates and procedures as he considers necessary to ensure that that new regulations can be complied with, in the event that a complaint is received before they can be considered by the Standards Committee.

The Act requires that the Standards Committee establishes a number of sub committees (details set out below) which have common characteristics;

- minimum number of at least three members of the Standards Committee,
- at least one independent member who must also chair the sub-committee.

It is proposed rather than appointing named members to each of the sub committees, that members be selected to serve on a sub committee dependant upon the requirement for a meeting of the sub committee and upon their availability. Further that the membership of the Standards Committee serve as the pool from which members can be appointed (statutory requirement). This approach will provide the greatest amount of flexibility in calling meetings and

provide a much richer and varied opportunity for all standards committee members to gain experience in all aspects of the new regime.

Assessment sub committee

This sub committee will receive the complaint and undertake an assessment in order to determine whether or not the complaint should be investigated and or action other than an investigation be taken. The sub-committee may issue a direction to the Monitoring Officer to take other steps including the arrangement of:

- training for any member who is the subject of the allegation
- the member and the complainant engaging in a process of conciliation

If the sub-committee decides

- that there is to be a local investigation, this will be undertaken by or on behalf of the Monitoring Officer and a full report will be produced,
- not to request an investigation be undertaken the complainant has the right to seek a review.

Review Sub committee

The review must be undertaken by a differently constructed sub-committee, comprising of at least three members of the Standards Committee, which again must be chaired by an independent member. The review criteria will be as the original assessment criteria. There is no right to seek a further review if the complainant continues to be dissatisfied with the outcome.

Hearing sub committee

Within three months of the finalisation of an investigation report a hearing must take place before the Standards Committee (or a sub-committee) which again must be chaired by an independent member.

In the event the sub committee finds that the code of conduct has been breached it has the existing sanctions available to it (ranging from no action in that case to a maximum of a suspension of the member for six months). If the Standards Committee considers that a greater penalty should be imposed, they have the right to refer the matter to the Adjudication Panel for England.

Implications of the new arrangements:

Since the introduction of the new standards regime the monitoring officer has received on average over one complaint per month and 15 were made to the SBE in 2007. At this stage we do not know whether this number will increase or decrease as a result of the new local framework.

Whilst members have received training on the code of conduct and the standards committee have been trained on local hearings, further training on the new implications and duties will need to be provided to all members, especially those that will be members of the sub committees. Detailed guidance will be issued shortly by the SBE and will be the focal point for training Standards Committee members during forthcoming months.

The revised terms of reference for the Standards Committee (which are contained within the Council's Constitution) reflect changes in the functions of the committee and are attached as Appendix A. It is proposed that these are recommended to Council for approval.

Appendix A

Proposed revised Terms of Reference

(Items to be included are detailed in bold and items to be removed have a line struck through them)

The Standards Committee shall either itself or through a sub committee to whom it may delegate any function below discharge the following functions:-

- (1) Promoting and maintaining high standards of conduct by Councillors, and voting co-opted members (and church and parent governor representatives).
- (2) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- (3) Assisting Councillors and voting co-opted members (and church and parent governor representatives) to observe the Members' Code of Conduct.
- (4) Monitoring the operation of the Members' Code of Conduct, in the light of best practice, changes in the law, guidance from the Standards Board and recommendations from Case Tribunals.
- (5) Advising, training or arranging to train Councillors, voting co-opted members (and Church and parent governor representatives) on matters relating to the Members' Code of Conduct.
- (6) Granting dispensations to Councillors and voting co-opted members (and Church and parent governor representatives) from requirements relating to interests set out in the Members' Code of Conduct.
- (7) **Receiving, assessing and determining action to be taken in respect of complaints received alleging a breach of the code of conduct by a member of the Council**
- (8) **Upon request, reviewing local assessment decisions**
- (9) **Conducting hearings following receipt of an investigation report and determining what sanction if any to be imposed upon a member.**
- (10) Dealing with any reports from a Case Tribunal or Interim Case Tribunal, or from the Standards Board and any report from the Monitoring Officer on

any matter which is referred by an Ethical Standards Officer to the Monitoring Officer.

- (11) Other functions relating to standards of conduct of Members assigned to Standards Committees under any Act or ~~Regulation under the Local Government Act 2000 including any Regulations made under Section 66~~
- (12) To consider guidance from the Standards Board for England and any recommendations received from a Case Tribunal;
- (13) Implementing the decision of the Case Tribunal;
- (14) Dealing with complaints of breaches of the Model Code of Conduct referred to the Monitoring Officer by an Ethical Standards Officer, subject to enabling regulations being made under Section 66 of the Local Government Act, 2000;
- (15) Dealing with Members misconduct falling outside breaches of the Code of Conduct, for example, breaches of protocols.
- ~~(16) Dealing with allegations of breaches of Member's Code of Conduct referred to the Monitoring Officer by an Ethical Standards Officer — subject to regulations being made under Section 66 of the Local Government Act, 1966. (remove)~~
- (17) To consider Ombudsman's reports and make payments or other benefits in cases of maladministration. (Section 92, Local Government Act, 2000).
- (18) Whistleblowing Policy.
- (19) Strategic overview of the Employees' Code of Conduct.
- (20) Anti-fraud procedures.
- (21) Overview of reports from external auditors.
- (22) Oversight of the Constitution.
- ~~(23) Dealing with breaches of protocols (remove).~~
- (24) To undertake the grant and supervision of exemptions from political restriction for the purposes of the Local Government and Housing Act, 1989 as amended.**
- (25) To determine whether any privileges of a member of the Council, including the privilege to use the facilities of the Civic Suite as may**

be accorded by the Council to Members, from time to time, shall in any particular circumstances be withdrawn from any member provided that no such determination shall be made until the member concerned shall have been given an opportunity of appearing in person before the Committee.

- (26) Be responsible for the submission of qualitative and quantitative data to the SBE or other organisation as may be required by legislation or guidance from the SBE.
- (27) For the purposes of this terms of reference, the term member shall be interpreted as defined in the councils code of conduct for elected members

LOCAL CODE OF CONDUCT COMPLAINTS PROCESS

Changes to the complaints procedure

From 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct is moving from the Standards Board for England to the standards committees of local authorities.

What this means to you

After 8 May 2008 if you want to complain about the conduct of a member of Walsall Council you must submit your complaint in writing to:

Chair of the Assessment Sub-Committee
The Standards Committee
C/O Constitutional Services Manager
Walsall Council
Civic Centre
Darwell Street
Walsall MBC
WS1 1TP

The assessment sub-committee can only deal with complaints about the behaviour of a member. It will not deal with complaints about things that are not covered by the members' Code of Conduct. If you make a complaint to the assessment sub-committee it must be about why you think a member has not followed the Code of Conduct.

Copies of the code of conduct, the complaint form and the procedure are available either from the above address or from the council web site

www.walsall.gov.uk