

# **Report to the Standards Committee**

**Date of meeting: 26 February 2008**

**Subject: The Conduct of Local Authority Members - Orders and Regulations**



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## **Recommendation:**

**To formulate a response to the consultation document issued by the Department for Communities and Local Government in relation to orders and regulations regarding the Conduct of Local Authority Members in England.**

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1. The Government has published the attached consultation paper seeking views on the detailed arrangements for putting into effect the orders and regulations required to provide a more locally-based ethical regime for the Conduct of Councillors.
  2. The consultation document seeks views by 15 February 2008 and, in order to comply with that timescale, members were asked to submit views in order that officers could co-ordinate a reply. However, the Department for Communities and Local Government has granted an extension of time in order to allow the Committee to formulate its views at this meeting.
  3. The arrangements need to cover:
    - (a) the operation of Standards Committees' powers to make initial assessments of misconduct allegations;
    - (b) the operation of other functions by Standards Committees and the Adjudication Panel in issuing penalties and sanctions;
    - (c) the operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime; and
    - (d) other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.
  4. The Government anticipate the provisions coming into effect in Spring 2008 and on 1 April 2008 at the earliest.
  5. The particular questions on which comments are sought are summarized in Annex A of the consultation paper.
  6. The Committee is asked to formulate a response to the Consultation taking account of the following views already expressed by Members:

**Question 1** - This Committee, and probably other Standards Committees, comprise six members. If two Sub-Committees are required, each one will need to comprise of three members.

The Standards Board recommends that a Standards Committee should comprise at least six people as a minimum (three elected members and three independent members).

However, six members is considered insufficient as it will not be possible for two Sub-Committees with separate memberships to operate in the event of conflicts of interest, holidays or sickness.

A decision not to investigate should only be subject to a review if new evidence is produced. Otherwise, another Sub-Committee will simply be invited to come to a different conclusion on the same evidence and this will encourage all complainants to request reviews of all initial decisions.

Members undertaking the initial assessment or review should not be prohibited from taking part in any subsequent determination hearing. The initial assessment or review looks only at an allegation and decides whether an investigation is warranted. A requirement that any hearing should be before different members from those undertaking the initial assessment or review would require a Standards Committee with a minimum of nine members and probably more to cover for conflicts of interest, holidays or sickness.

**Question 2** - Yes. There should be an agreement between Standards Committees to avoid unnecessary duplication of effort and distress for the member involved. It is neither necessary nor desirable for the Standards Board to become involved but guidance from the Board will be required in order to resolve the position where agreement cannot be reached.

**Question 3** - Yes, guidance will be sufficient and it should not be too prescriptive.

**Question 4** - Differing views have been expressed in response to this question.

One view is to agree the suggestions.

The other view acknowledges that there might be circumstances when it might be appropriate to seek more evidence from a complainant before telling the member concerned but questions whether it would be appropriate for the investigating officer to interview other witnesses before the member is made aware of the complaint.

**Question 5** - Yes, with the addition of a member not being re-elected added to the circumstances justifying referral back to the Committee.

**Question 6** - Yes.

**Question 7** - Differing views have been expressed in response to this question.

One is that this Committee has three independent members so this would not present a problem; however, it is suggested that when a complaint is against a Parish or town councillor, a district councillor could chair a meeting and vice versa.

The other view is that some authorities have difficulty in recruiting independent members and this may be a problem for those authorities; parish councillors with no political affiliation should be regarded as 'independent'; district councillors should be able to chair meetings unless they have a prejudicial interest; there is no need for a requirement that all chairs be independent members but guidance should encourage this where possible.

**Question 8** - Yes.

**Question 9** - Yes.

**Question 10** - Differing views have been expressed in response to this question.

One is, that if a Standards Committee is not functioning properly, the need for a Council to pay another Standards Committee to do their work, is unlikely to have an impact on the way in which the first Committee operates; the regulation should specify that reasonable costs may be recovered by another authority.

The other view is that the Standards Board should set down a template for what can be included leaving each authority to charge costs reflecting their own situation; however, it is questioned whether members and officers will have the time to take on this extra work.

**Question 11** - Differing views have been expressed in response to this question.

One is that this is a good idea but needs further thought on how it might operate; and that careful consideration needs to be given to the issues of time and costs, particularly those of officers.

The other view is that this could overcome the concerns expressed in response to Question 1; it is not considered necessary to limit the geographical area but the regulation should specify that each Standards Committee, not officers, must agree to joint working.

A third view expressed is to support the suggestion that the parish representative can be drawn from any parish in the joint committee's area.

**Question 12** - Yes.

**Question 13** - Yes.

**Question 14** - Yes, decisions have been made; and the proposal is supported.

**Question 15** - No comment.

**Question 16** - This date seems optimistic.

**Other comment** - A feature throughout the regime is to publish notices in the local newspaper - this is very expensive. Publication on the Council's website or in the Council's 'free' newspaper should be sufficient.