
REPORT TO:	COUNCIL	AGENDA ITEM: 20
DATE OF MEETING:	22ND MAY 2008	CATEGORY: DELEGATED
REPORT FROM:	MONITORING OFFICER	OPEN
MEMBERS' CONTACT POINT:	ANDREA McCASKIE, HEAD OF LEGAL & DEMOCRATIC SERVICES (EXT. 5831)	DOC: U:\JAYNE\Commtee\COMMREP\LocalAssessmentRegs.doc
SUBJECT:	LOCAL ASSESSMENT REGULATIONS AND STANDARDS BOARD FOR ENGLAND GUIDANCE	REF: AGM/JB
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 To increase the membership of the Standards Committee to 11 members, increasing the number of Parish Council representatives from 2 to 3.
- 1.2 To establish a Standards Sub-Committee (Initial Assessment) and a Standards Sub-Committee (Review) in addition to a Standards Sub-Committee (Hearings), the composition of which is set out in the report.
- 1.3 To approve the terms of reference for the 3 Sub-Committees established in 1.2, as set out in Appendix 'A' to the report.
- 1.4 To note the transfer of responsibilities from the Standards Board for England ("SBE") to the Standards Committee for the local assessment of alleged breaches of the Members' Code of Conduct.

2.0 Purpose of Report

- 2.1 The purpose of this report is to inform Members that the Government has laid the relevant Regulations relating to the conduct of local authority members in England. The Standards Committee (England) Regulations 2008 ("the Regulations") were made on 14th April 2008 and came into force on 8th May 2008.
- 2.2 In addition, the SBE has, on the back of these Regulations, produced its own guidance on the Regulations for local authorities to be mindful of when determining any matter under the local assessment regime.

3.0 Detail

Background

- 3.1 With effect from 8th May 2008, all complaints against elected members will be received by the Standards Committee, rather than the SBE and, in appropriate cases, will be dealt with locally by way of an investigation by the Monitoring Officer and if it proves necessary, by local determination by the Standards Committee hearings. In more serious cases (as set out in the SBE's guidance on that matter) these will be referred by the Standards Committee to the SBE for consideration/determination, as necessary.
- 3.2 The Regulations state that Standards Committees must establish an "Initial Assessment" Sub-Committee and a "Review" Sub-Committee which will comprise of membership which is separate from the "Initial Assessment" Sub-Committee. In addition, a "Hearings" Sub-Committee will have to be established in the event that the "Initial Assessment" or "Review" Sub-Committee determine that a member has breached the Code of Conduct and, where appropriate, it will have the power to impose a sanction on the member concerned.
- 3.3 In terms of the "headlines", the Standards Committee will need to establish 3 Sub-Committees – one will deal with "Initial Assessment", one will deal with a "Review" of any matter from the "Initial Assessment" Sub-Committee and one will deal with any "Hearings" that may be necessary. Membership of the first and second Sub-Committees must, by law, be different and each must be chaired by an independent member of the Standards Committee. In addition, the quorum for each Sub-Committee will be 3 members.
- 3.4 The proposed terms of reference for the 3 Sub-Committees introduced under the Regulations are attached at Appendix 'A' to this report.
- 3.5 One of the more immediate impacts is that we will require another Parish Councillor to serve on the Standards Committee, so that there are different Parish Councillors on the "Initial Assessment" and "Review" Sub-Committees. This view is supported by the SBE guidance which states that "there should be a minimum of 3 parish council representatives on the Standards Committee". The Secretary of the Derbyshire Association of Local Councils will be asked to nominate a further parish council representative, increasing their number from 2 to 3. This will increase the membership of the Standards Committee to 11 members.
 - (a) 3 Councillors – District Council Members
 - (b) 5 people – Independent Members
 - (c) 3 Parish Councillors – Parish Members
- 3.6 With regard to the "Hearings" Sub-Committee, the membership can be from those who initially assessed the complaint, or from the members of the "Review" Sub-Committee. This will, therefore, be no different to the arrangements which exist in relation to High Court Judges considering applications for leave and then ultimately determining the matter themselves.

3.7 The purpose of the Initial Assessment decision or Review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The “Initial Assessment” and “Review” Sub-Committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

3.8 In addition to the Parish Councillor requirement, there is a statutory requirement that each Sub-Committee is chaired by an independent member.

4.0 Financial Implications

4.1 South Derbyshire District Council is responsible for Standards issues, not only in relation to District Council members, but also in respect of members of the Parish Councils in our district. However, it should be noted that there is no mechanism in the legislation to recharge Parish Councils for the cost of undertaking hearings or any subsequent investigations.

5.0 Corporate Implications

5.1 It is imperative to enable the Standards Committee to carry out its functions that there are at least 3 Parish Council members sitting on the Standards Committee. This view is supported by the Local Assessment of Complaints guidance issued by the SBE. This will ensure that there is a Parish Representative available without a conflict of interest for both the “Initial Assessment” and “Review” Sub-Committees when a complaint is considered about a member of a Parish Council.

6.0 Community Implications

6.1 The Council’s Standards Committee plays a vital role in promoting and maintaining the highest standard of conduct by Councillors of South Derbyshire District Council and the parishes in its areas.

7.0 Background Papers

7.1 The Standards Committee (England) Regulations 2008
SBE Local Assessment of Complaints Guidance
SBE Bulletin No. 38