



DERBY CITY COUNCIL

STANDARDS COMMITTEE 21 JANUARY 2008

Report of the Corporate Director of Corporate and Adult Services

Local Assessment

RECOMMENDATIONS

- 1.1 To approve the proposed responses to the Government consultation questions, set out in Appendix 2, with or without amendment.
- 1.2 To review the Standards Board Checklist for Local Authorities at Appendix 4 and decide on any appropriate action.

SUPPORTING INFORMATION

- 2.1 Members of the Committee will be aware of the proposals, now enacted in Part 10 of the Local Government and Public Involvement in Health Act 2007, for allegations of breaches of the Members' Code of Conduct to be assessed, investigated and determined by local Standards Committees.
- 2.2 The new regime is expected to come into effect on 1 April 2008 following the making of regulations and the issuing of guidance by the Standards Board for England.
- 2.3 The Department for Communities and Local Government has issued a Consultation Paper entitled 'Orders and Regulations Relating to the Conduct of Local Authority Members in England', a copy of which is at Appendix 3. The Consultation Paper asks a number of questions and proposed responses are suggested at Appendix 2. The Committee is invited to consider these responses and approve them, on behalf of the Council, with or without amendment, for submission to the Department by 15 February 2008.
- 2.4 I have included, at Appendix 4, a checklist of things for local authorities to consider in the run-up to 1 April 2008, produced by the Standards Board for England. It would be a useful exercise for the Committee to review the Checklist to see whether there is any action the Council could be taking in advance of the receipt of the final regulations and guidance.
- 2.5 One issue which the Committee may wish to consider is the composition of sub committees to ...
 - a) receive and assess complaints
 - b) review local assessment decisions
 - c) conduct hearings following investigation

The Consultation Paper and Standards Board Checklist both suggest that a minimum of two sub committees (with different membership) should be established to carry out functions a) and b). Members of the Standards Committee – either as the full committee or third sub committee – could carry out function c) even if they have been involved in a) or b).

- 2.6 It is possible, therefore, to envisage the following configuration for a Standards Committee of three councillors and three independent members where sub committees of three members are drawn from the overall membership of six.

Sub Committee A – Reviews and Assesses the Complaint

Independent Member (Chair)
Independent Member
Councillor

Sub Committee B – Reviews a Decision Taken By Sub Committee A

Independent Member (Chair) Councillor Councillor	}	Must not be any member who dealt with the particular complaint on Sub Committee A
--	---	---

Full Committee or Sub Committee C – Conducts a Hearing Following an Investigation

All six members, or a sub committee of three, chaired by an Independent Member. Membership may include a member who has participated in Sub Committee A or B.

- 2.7 The above arrangement is vulnerable to conflicts of interest and holidays / sickness, so it may be necessary in due course to consider increasing the size of the Standards Committee. This could be an important issue bearing in mind that there will be mandatory timescales for considering complaints, and performance monitoring by the Standards Board with powers to suspend a Standards Committee's assessment powers. Much will depend on the number of complaints received.

For more information contact:	Steve Dunning 01332 255462 e-mail steve.dunning@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Proposed Responses to Consultation Questions Appendix 3 - Orders and Regulations Relating to the Conduct of Local Authority Members in England – Consultation Paper Appendix 4 – Standards Board Checklist for Local Authorities

IMPLICATIONS

Financial

1. It is hoped that the costs of the new regime can be contained within existing budgets. This will depend on the volume and complexity of complaints.

Legal

2. The new local assessment regime will be brought with effect under Part 10 of the Local Government and Public Involvement in Health Act 2007 and associated regulations. There will be statutory guidance from the Standards Board for England.

Personnel

3. I am currently assessing the staffing requirements of the new regime. Again, this will depend on the volume and complexity of complaints. Training will be a key requirement for Standards Committee members and officers.

Equalities Impact

4. It will be important to ensure that the complaints system is accessible to all citizens.

Corporate Themes and Priorities

5. None directly arising.

Proposed Responses to Consultation Questions

- Q1 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? 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?**

Yes to both questions. It may be necessary to increase the size of Standards Committees to meet these requirements.

- Q2 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?**

No comment – as it is unlikely to be an issue in Derby.

- Q3 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?**

Yes. Imposition of strict time limits can cause unnecessary difficulties.

- Q4 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?**

Yes.

Are there any other circumstances which you think would also justify the withholding of information?

No.

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?

Yes.

Q5 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?

Yes.

Q6 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?

Yes to both questions.

Q7 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?

Chairs of sub committees should be independent members. This should be manageable provided that proposals in paragraph 4, of the Consultation Paper are implemented.

Q8 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?

Yes.

Q9 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?

The proposals are acceptable.

Q10 Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical 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?

These should be a light touch approach to statutory provision in relation to charging; this could be a simple power to recover reasonable costs.

Q11 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 and, if so, how should such a limitation be expressed? 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?

Derby City Council may be interested in joint working arrangements; this would depend upon the volume and complexity of cases under the new regime. The geographical area could be limited to the relevant Government Office area.

Q12 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?

Yes.

Q13 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?

The proposals are acceptable.

Q14 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?

Derby has operated the current dispensation arrangements without any particular difficulty. The proposed amendments are supported as providing useful clarification.

Q15 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?

No comment.

Q16 Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Given the complexity of the new arrangements, the necessary detailed preparations, and the fact many authorities hold their Annual Meetings in May to appoint committees etc., it is suggested that the implementation date be put back to 1 June 2008.