

Committee: **Standards Committee**

Date: **16 April 2008**

Title: **The Local Assessment of Complaints Regarding Members' Conduct**

By: **Director of Law and Personnel**

Purpose of report: **To consider the implementation of the local assessment of complaints regarding members' conduct, and changes to the Standards Committee**

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**RECOMMENDATIONS – that the Governance Committee are recommended to:**

- **increase the membership of the Standards Committee to three co-opted independent members, and to five elected members;**
- **delegate to the Director of Law authority to appoint members of the Standards Committee to a referral Sub-Committee, Referrals Review Sub-Committee, and an Hearing and Determination Sub-Committee as and when needed in order to deal with complaints made to the Standards Committee for allegations of breach of the Code of Conduct for Members;**
- **delegate to the Director of Law authority to make necessary amendments to the Constitution arising out of the implementation of the relevant regulations made under the Local Government and Public Involvement in Health Act 2007;**
- **ask the Standards Committee to review arrangements once the relevant regulations have been made.**

**1. Financial Appraisal**

1.1 There are no financial implications for this report.

**2. Introduction**

2.1 The local Government and Public Involvement in Health Act 2007 received Royal assent on 30 October 2007. One of the significant effects of the Act for this Committee is the introduction of a locally managed framework of compliance with the Code of Conduct, which will involve the Standards Committee in making initial assessments of any allegations that the Council receives about member misconduct. In most cases any complaint that requires further action will be investigated and decided locally without the involvement of the Standards Board for England.

2.2 From May 2008 Standards Committees will have three distinct roles in relation to complaints about member conduct

- Receiving and assessing complaints
- Reviewing local assessment decisions
- Conducting hearings following an investigation into the complaint

2.3 Regulations need to be drafted to prescribe how some of these provisions will work in practice, not least local assessment and monitoring arrangements. Local assessment is on course to come into effect in May 2008 and the Standards Board is conscious of the need to have the legislation and our guidance in place before then.

2.4 To support local authorities, the Standards Board will be producing a range of comprehensive guidance on the framework for local authorities. Although they are currently preparing this guidance based on what they anticipate the regulations will contain, they are waiting for the final regulations to be in place before they finish and publish it.

### **3. The implications**

3.1 The Standards Board for England has made a number of recommendations relating to the size and remit of the Committee following a pilot introduction of the requirements of the Act in a number of Authorities across the Country.

3.2 Standards Committees must have a minimum of three members (including the independent member) although in practice the Standards Board recommends that each Committee has a minimum of six members (three elected members and three independent members).

3.3 To avoid perceptions of bias or pre-determination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested. To overcome this, the Standards Board recommend that at least two sub-Committees are set up to deal with the different roles. Alternatively, the Standards Committee could act as a pool of members in a similar way to the Regulatory Committee. Regardless of the structure, sub-committees set up to either take an initial assessment or to review a decision must each be chaired by an independent member. There is advice to the effect that although anyone concerned at the initial assessment stage should not be involved at the review, there is no bar to them being involved in the full investigation if required.

3.4 Looking at this from a practical point of view the Committee needs to be sufficiently large to allow for possibilities of non-availability, sickness or personal interest. This needs to be balanced with the anticipated levels of activity that the Standards Committee will be required to undertake.

3.5 The Committee are asked to consider the structure of the existing committee and to make recommendations for a revised Committee structure.

3.6 There is current provision for a second independent member of the Standards Committee, but there hasn't been a requirement to appoint to that position to date because of the lack of current activity for the Standards Committee. It is our recommendation that we create a further vacancy for an independent member making a total of three.

3.7 There are currently three elected members on the standards Committee. The political balance provisions do not apply and there is currently one member from each of the main political groups on the Committee.

3.8 There are a number of options available to the Council that take the comments in paragraph 3.4 into account and it is recommended that the number of elected members be increased to 5 giving a total committee size of 8 members (elected member appointments could be made on the basis of political balance)

3.9 Some authorities have made provision for the appointment to the sub-committees in advance. There is some risk in this depending on the case and issues raised in paragraph 3.4 above. It is, therefore, recommended that the Standards Committee is used as a 'pool' and that the Director of law is delegated to appoint the members of the sub-committees from that pool in a similar way to the current Regulatory Committee. There would be a requirement for an independent member for each sub-committee.

### **4. Publicity and information**

4.1 Members of the Committee are asked to consider the need for further information on the website or in other public arenas, not just to publicise the change in legislation but to clarify the role of the Committee and the Code of Conduct for members. The website includes the Code of Conduct and the remit of the Committee as part of the Constitution. There is a section showing how to complain about services but there is currently no information showing how complaints about a Councillor are dealt with. Some authorities have considered developing a leaflet showing the local assessment process.

### **3. Training implications for members**

3.1 The majority of Councillors have now been trained in the revised Code of Conduct and a further session will be run in June for the benefit of any Councillors who missed the initial programme of events.

3.2 The Standards Board for England has published a training exercise for standards committees, which aims to prepare them for the forthcoming changes to the standards framework. This will see standards committees become responsible for assessing Code of Conduct complaints and deciding whether action needs to be taken.

3.3 All members of the Standards Committee will be provided with training in the new requirements of the Act.

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Local Members: all

Background docs: none