

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Standards Committee

21st July 2008

1. THE ROLE AND MAKE UP OF STANDARDS COMMITTEES

Report of the Monitoring Officer.

RECOMMENDED

THAT Members consider the guidance “The Role and Make Up of the Standards Committee” issued by the Standards Board and discuss any implications for the authority and take any appropriate actions or make suitable recommendations to the authority to ensure appropriate compliance with the guidance.

2. PURPOSE OF REPORT

2.1 The Local Government Act 2000 requires that the authority must set up a Standards Committee. The Standards Committee (England) Regulations 2008 set out the rules governing the size and composition of the Standards Committee. These Regulations are mandatory. The guidance issued by the Standards Board must be taken into account by the authority. Whilst the guidance is aimed primarily at members of Standards Committees and Monitoring Officers it is intended also to be a useful reference tool for all members and officers.

2.2 The authority has set up arrangements for its Standards Committee and to facilitate the ethical framework which are consistent with the primary and secondary legislation.

2.3 The Standards Committee is requested to consider this guidance by the Standards Board to see what else needs to be done by the authority or the Standards Committee.

3. BACKGROUND

3.1 “The Role and Make Up of Standards Committees” is guidance issued by the Standards Board for England and is appended to this report as Appendix 1. Some of the main points for the Standards Committee to note are summarised below.

- 3.2 The Standards Committee needs to give consideration to this guidance and there may be implications that the Standards Committee or the authority needs to consider and, if appropriate, action.
- 3.3 The terms of reference of the Standards Committee are consistent with the guidance. The authority does have an Audit Committee, the terms of reference of the Audit Committee do not compromise the lead role of the Standards Committee in promoting good ethical conduct. The revised terms of reference of the Standards Committee have been submitted to the Standards Board as required by the guidance.
- 3.4 The authority has adopted the revised Code of Conduct as required. The guidance suggests that Standards Committee members can act as examples to other members by supporting the adoption of the Code by discussing ethical issues widely with their colleagues. There is a leadership role given to such members.
- 3.5 The Code of Conduct was appropriately publicised after adoption.
- 3.6 Standards Committee has engaged in training/development activities as part of its work. Such training continues to take place on a regular basis and includes brief induction training for new members. The guidance suggests that Standards Committees may wish to issue guidance notes or memos through the minutes to run alongside the Code. It is suggested that such guidance could also be included in a members handbook and placed on the authority's website. This is an area that can be further developed and will provide a further structured mechanism for the advice and guidance currently provided by the Monitoring Officer.
- 3.7 The guidance suggests that Standards Committees need to monitor how effectively members are adhering to the Code of Conduct, the type of complaints received and how quickly these complaints are dealt with. This monitoring can be enhanced now that the Monitoring Officer also will have to make quarterly and annual returns to the Standards Board for England on the operation of the Code in the authority. The authority has not actually had complaints.
- 3.8 The Standards Committee can have a wider role than the mandatory role given to it by the Local Government Act 2000. It is said in the guidance that the authority should review the Constitution regularly, at least once every five years. It is the practice in this authority to carry out some review on an annual basis. Guidance suggests that the authority may want to make the Standards Committee

responsible for reviewing the Constitution. Where constitutional issues arise which touch upon the ethical framework these can be brought to the Standards Committee .

- 3.9 The Standards Committee has a role in considering applications for dispensation for members to attend meetings where they would otherwise be excluded because they have a prejudicial interest. Thus far, and certainly in recent times, the Standards Committee has not had to deal with any such requests.
- 3.10 The Local Government and Public Involvement of Health Act 2007 also gave a new duty to standards committees to consider politically restricted posts under the Local Government and Housing Act 1989.
- 3.11 The guidance deals with the size and composition of standards committees and the authority is compliant with this guidance.
- 3.12 It is stated that the Chair of the Standards Committee must always be independent. It is also suggested that the authority may want to appoint an independent member to act as Vice-Chair of the Committee in case the Chair is unable to attend.
- 3.13 The guidance deals with how to select independent members and how long an independent member should sit on the committee. It is recommended that the period of office for independent membership be four years and that when re-appointing an independent member that he or she serve no longer than two terms, which would mean a maximum of eight years for any independent member. This is suggested so that independent members gain sufficient understanding of the committee, the authority and its workings, and yet that they do not become over time perceived as losing their independence. The guidance goes on to suggest how independent members should be chosen. The guidance points out that the Regulations require a majority of all members of the authority to approve the appointment and not just those attending the authority meeting.
- 3.14 Guidance recommends that the Standards Committee have the power to assist in the recruitment of independent members and that this should be included in the committee's terms of reference. If this role was to be assumed by the Standards Committee following an addition to the terms of reference of the Standards Committee granted by the authority then the Standards Committee may need to have suitably trained members to shortlist and interview candidates and make recommendations to the Council. The guidance points out that an individuals membership of a political party does not bar

them from being an independent member although public perception is also an important factor.

- 3.15 The guidance suggests ways of advertising and attracting candidates to be independent members. It goes on to list skills and competencies of independent members that would be useful.
- 3.16 The guidance deals with the role of the independent Chair of the Standards Committee. It states that an effective Chair will ensure that the business of the meeting is completed while allowing a fair and balanced debate and any professional advice to be taken into account.
- 3.17 The guidance recommends that independent members should be able to claim for financial loss, travel and subsistence. It is stated that each authority must consider the recommendations of its independent remuneration panel as to whether it should provide for the payment of co-optive allowance and of travelling and subsistence expenses.
- 3.18 The guidance reminds members that independent members must sign an undertaking to comply with the Code of Conduct and disclose their interests in the Register of Members Interests maintained by the Monitoring Officer in the same way as other members.
- 3.19 It is said that the authority should consider whether it is appropriate to appoint an executive member to the Standards Committee. Appointing an executive member shows that the Committee is supported and respected by all parts of the authority. Care must be taken to show a degree of independence from the political leadership of the authority.
- 3.20 Standards Committees do not need to reflect the political balance of the authority. It is pointed out that Standards Committees should be seen as making judgements impartially and without regard to party loyalty. It is said that elected members of the Standards Committee should not be subject to a party whip.
- 3.21 The guidance notes that some authorities operate a substitute system allowing a substitute member to attend a meeting of the committee or sub-committee whenever a regularly appointed member cannot be present. The guidance does not recommend the use of substitutes for standards committees. The reason given for this is that standards committees are not intended to operate along party political lines and therefore it is said that it is not necessary to

ensure political balance. Guidance goes on to say that where independent members are unavailable the authority should be able to substitute its independent members with independent members from another authority. The guidance does say that it is possible to have a sub-committee of a standards committee which does not have to have a fixed membership or chairmanship. This would allow the Standards Committee to have a panel of its members that could be drawn on to sit on any particular sub-committee at any time.

- 3.22 The guidance contains a section on the role of the Monitoring Officer. The Monitoring Officer has an important role in helping the Standards Committee to carry out its functions. The Monitoring Officer also acts as a link between the Standards Committee members and the authority as a whole.
- 3.23 The guidance points out that a Standards Committee must appoint a sub-committee to assess new complaints and one to review decisions to take no action over a complaint. In addition a Standards Committee can appoint a sub-committee to consider a Monitoring Officer's final investigation report and also to consider determination hearings.
- 3.24 It is pointed out that a member of an assessment sub-committee cannot be present at the review sub-committee meeting when it considers a complaint that the assessment sub-committee decided no action should be taken.
- 3.25 Standards Committee agendas should be open for inspection five days before the meeting. However meetings of the assessment and review sub-committees are closed and therefore agendas for these meetings do not come under this rule.
- 3.26 If the Chair believes, by reason of special circumstances specified in the minutes, that an item should be considered as a matter of urgency, this can be considered, despite it not having appeared on the agenda for the meeting. Generally meeting minutes should be available for six years after the meeting unless they relate to the part of the meeting that the public was excluded from.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out.

5. **LEGAL IMPLICATIONS**

- 5.1 The Local Government Act 2000 and the Standards Committee (England) Regulations 2008 set up the legal framework for the role and make up of the standards committees. In addition the guidance issued by the Standards Board must be taken into account by the authority. It must be noted that the Standards Board now has a monitoring and regulatory role granted to it by legislation and it is important to implement the ethical framework with due regard to the legislation and guidance. If the Standards Board is not happy with performance at the local level it does have the power to intervene and take away the additional responsibilities given to the authority.

6. **FINANCIAL IMPLICATIONS**

Compliance with the guidance may require further actions by the Standards Committee, the Monitoring Officer or her staff and this may result in additional work and resources being deployed. However, any actions generated as a result of this guidance itself are unlikely to have significant financial implications.

N SHARMA
MONITORING OFFICER