

Minutes of the Standards Committee

21st July, 2008 at 10.00 am
at the Fire Service Headquarters, Birmingham

Present: Mr C Topliss (Chair);
Councillors Eustace, Ryder, Singh and Sutton;
Mr Bagley.

Apologies: Councillors Idrees and Jones and Mr Denny.

12/08 **Chair and Vice Chair**

The Committee was advised that the Authority at its Annual Meeting on 23rd June, 2008 had appointed Mr C Topliss as Chair of the Standards Committee.

Resolved that Mr Bagley be appointed Vice Chair of the Committee for the remainder of the year expiring with the Annual Meeting of the Authority in June 2009.

13/08 **The Role and Make-up of Standards Committees**

The Committee was informed that the Local Government Act 2000 required the Authority to set up a Standards Committee. The Standards Committee (England) Regulations 2008 set out the rules governing the size and composition of the Standards Committee which were mandatory. The Standards Board for England (SBE) had issued revised guidance on this issue which had to be taken into account by the Authority. The Authority had already set up arrangements for its Standards Committee and the ethical framework which were consistent with primary and secondary legislation.

The Committee considered the SBE guidance and was satisfied that the Authority's arrangements for the ethical framework were compliant with the guidelines.

14/08 **Local Assessment of Complaints**

The Committee was informed that the Local Government and Public Involvement in Health Act 2007 enabled the transfer of initial assessment of allegations of member misconduct from the Standards Board for England (SBE) to local Standards Committees or Sub-Committees which would have to decide whether each allegation appeared to be a breach of the Code of Conduct for Members, and then whether it should be investigated.

The Standards Committees (England) Regulations 2008 contained the detail of how the new framework would operate and came into force on 8th May 2008.

The SBE had issued guidance on the local assessment of complaints.

The Authority at its annual meeting on 23rd June, 2008 had agreed revised terms of reference for the Standards Committee to include the additional responsibilities of local assessment and review of allegations of breaches of the Code of Conduct.

The Committee considered what measures were necessary to implement the detail of the new local framework where the guidelines allowed some local discretion.

Resolved:

- (1) that the revisions to the Standards Committee's terms of reference be noted;
- (2) that an Assessment Sub-Committee be established with the membership and terms of reference set out in Appendix 1;
- (3) that a Review Sub-Committee be established with the membership and terms of reference set out in Appendix 2;
- (4) that a Hearing Sub-Committee be established with the membership and terms of reference set out in Appendix 3;

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- (5) that the Monitoring Officer be authorised to select an appropriate panel of members to sit as the Assessment, Review or Hearing Sub-Committee, to deal with individual cases, from the panels identified below, and that where it is not possible to obtain a quorum for an established panel, the Monitoring Officer be further authorised to select replacement members from the Standards Committee as appropriate for the individual case:

1	2	3
Mr Topliss [Chair]	Mr Denny [Chair]	Mr Bagley [Chair]
Cllr Eustace	Cllr Sutton	Cllr Jones
Cllr Singh	Cllr Ryder	Cllr Idrees

- (6) that the new complaints system be publicised via a press advertisement and the inclusion of appropriate information on the Authority's web site;
- (7) that a complaints process based on the SBE Toolkit be established and maintained by the Monitoring Officer;
- (8) that the Monitoring Officer exercise her discretion whether to acknowledge receipt of a complaint and tell the subject member that a complaint has been made about them (including the relevant paragraphs of the Code they may have breached) and note that this discretion does not extend to providing a written summary of the allegation to a subject member;
- (9) that the Assessment Sub-Committee receive a short summary from the Monitoring Officer of any complaint and that this should not seek to influence improperly the Assessment Sub-Committee's decision;
- (10) that the assessment criteria suggested in the SBE guidance 'Local Assessment of Complaints' be adopted and made publicly available to potential complainants and others;
- (11) that the Committee at a future meeting give due consideration to developing further the assessment

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criteria in the context of local knowledge and experience;

- (12) that the Assessment Sub-Committee be convened as and when necessary and that assessment decisions be taken within 20 working days;
- (13) that when the Assessment Sub-Committee refers a new complaint to the Monitoring Officer for investigation, the Monitoring Officer must write to the relevant parties informing them of the decision, and if appropriate, who will be responsible for conducting the investigation;
- (14) that when the Assessment Sub-Committee decides to refer a complaint to the Standards Board for investigation it must so refer immediately specifying the relevant paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why the complaint cannot be dealt with locally;
- (15) that the Standards Committee notes the type of factors, as set out in the guidance, that the Standards Board will consider when deciding whether to accept a case for investigation by an ethical standards officer, take no action, or refer back to the Standards Committee or relevant sub-committee;
- (16) that the Standards Committee, or relevant Sub-Committees, will send out the decision notice within five working days of the decision being made;
- (17) that the Assessment Sub-Committee shall take advice from the Monitoring Officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint against them and/or whether informing the subject member would prejudice the investigation;
- (18) that the Review Sub-Committee aim to undertake the review within an average of 20 working days;
- (19) that all relevant parties are notified when a review request is received;

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- (20) that the Review Sub-Committee will send out its decision notice within five working days of the decision being made;
- (21) that the Assessment and Review Sub-Committee will conduct their business in closed meetings;
- (22) that the written summary produced after the Assessment or Review Sub-Committee has considered a complaint be available for public inspection at the authority's offices for six years;
- (23) that where the complainant requests to withdraw their complaint prior to the Assessment Sub-Committee making a decision on it, the Assessment Sub-Committee shall consider whether the public interest in taking action outweighs the complainant's desire to withdraw it and whether the investigation can proceed without the complainant's participation;
- (24) that the Standards Committee consider at a future meeting its policy in relation to vexatious or persistent complaints;
- (25) that the Monitoring Officer be requested to develop a complaints management system that complies with the law and takes into account the Standards Board guidance on this aspect;
- (26) that the Standards Committee consider and develop at a future meeting criteria by which the Assessment Sub-Committee will consider requests for confidentiality and the arrangements for dealing with anonymous complaints;
- (27) that the Monitoring Officer act as the main adviser to the Standards Committee unless her independence has been compromised on a particular matter;
- (28) that the Standards Committee consider at a future meeting whether the authority needs to establish a data sharing protocol with other authorities to facilitate the consideration of complaints against

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individuals who are a member of more than one authority;

- (29) that the Monitoring Officer further develop and consolidate specific guidance and processes required to facilitate the assessment, review and determination of complaints in accordance with the law and the guidance and toolkit issued by the SBE and bring relevant reports to future meetings of the Standards Committee as appropriate.

15/08 Local Assessment of Complaints – Assessment and Review Criteria

The Committee considered draft criteria to be employed in the initial assessment and review of complaints.

Resolved:

- (1) that the Assessment and Review Criteria now submitted be approved and adopted;
- (2) that the Assessment and Review Criteria be appropriately published and made available to potential complainants.

16/08 Local Assessment of Complaints – Complaint Form and Information for Potential Complainants

The Committee considered a draft complaint form and accompanying information for potential complainants.

In response to a question, the Monitoring Officer undertook to investigate and report back on indemnity insurance for members [including independent members] of the Authority in connection with standards matters.

Resolved:

- (1) that the Complaint Form and accompanying Information for Potential Complainants be approved and adopted, subject to minor amendments;

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- (2) that the high level procedures to be followed following receipt of a complaint as summarised in the flow chart published by the Standards Board for England be noted.

17/08 **Date of next meeting**

To be held on a date to be agreed in November 2008.

(The meeting ended at 11.10 am)

<p><i>Contact Officer: Georgina Wythes Democratic Services Unit 0121 569 3791</i></p>

Terms of Reference of the Assessment Sub-Committee

1. Terms of Reference

- a. The Assessment Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct.
- b. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
 - ii. refer the allegation to the Standards Board for England;
 - iii. decide that no action should be taken in respect of the allegation; or
 - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.
- c. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
 - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
 - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
 - iii. the matter should be referred to the Adjudication Panel for determination.
- d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) or (c) above, the Sub-Committee shall state its reasons for that decision.
- d. The Sub-Committee shall consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- e. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

2. Composition of the Assessment Sub-Committee

The Assessment Sub-Committee shall comprise 3 members, of whom 1 shall be an independent co-opted member of the Standards Committee, who shall chair the Sub-Committee, and 2 elected members of the Authority.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent Co-opted member as Chairman, and at least one elected member of the Council.

4. Frequency of Meetings

The Sub-Committee shall agree a programme of meetings including one meeting per calendar month, but shall only meet where one or more allegations has been received which require to be assessed at that meeting.

Terms of Reference of the Review Sub-Committee

1. Terms of Reference

- a. The Review Sub-Committee is established to review, upon the request of a person who has made an allegation that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Assessment Sub-Committee that no action be taken in respect of that allegation.
- b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations;
 - ii. refer the allegation to the Standards Board for England;
 - iii. decide that no action should be taken in respect of the allegation; or
 - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition of the Review Sub-Committee

The Review Sub-Committee shall comprise 3 members, of whom 1 shall be an independent co-opted member of the Standards Committee, who shall chair the Sub-Committee and the other 2 shall be elected members of the Authority.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent Co-opted member as Chairman, and at least one elected member of the Council.

4. Frequency of Meetings

The Review Sub-Committee shall agree a programme of meetings including one meeting per calendar month, but shall only meet where one or more allegations has been received which require to be reviewed at that meeting.

Standards (Hearings) Sub-Committee

1. Terms of Reference

The Sub-Committee shall deal with the following matters which are delegated to it:

To conduct local hearings under Regulation 18 of the Standards Committee (England) Regulations 2008, or any amending or superseding legislation, taking into account any relevant guidance issued by the Standards Board for England, save where any functions are reserved to the Standards Committee (to be specified).

2. Membership

The Sub-Committee shall comprise three members, including one independent member, and the independent member shall act as Chair of the Sub-Committee.

3. Quorum

The quorum for the Sub-Committee shall be all three members.