

<b>AGENDA ITEM 4</b>
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3 March 2008

TO: The Chair & Members of the Standards Committee - 11 March 2008

## **CODE OF CONDUCT – HEARINGS**

### **1. PURPOSE OF REPORT**

To consider the Sub-Committees necessary to deal with complaints regarding Councillors who are alleged to have failed to comply with the Code of Conduct.

### **2. BACKGROUND**

2.1 The Committee has previously considered reports regarding the proposed changes whereby complaints are received by the Authority, rather than the Standards Board for England. The Government proposes that new rules regarding the procedure to be adopted will come into affect in Spring 2008.

2.2 In order to undertake its new functions for the initial assessment of misconduct allegations and considering requests to review decisions to take no action, as well as the existing powers to make determinations of allegations, the Committee will need to have a clear operational structure. It is likely that there will be a need to create sub-committees, so that the separate functions involved can be discharged appropriately.

2.3 There are four stages in respect of a complaint as follows:

Stage 1 – an initial assessment under Section 57A of the 2000 Act to consider whether a complaint should be referred for investigation,

Stage 2 – the complainant seeks a review under Section 57B of the 2000 Act in respect of a decision not to investigate the complaint,

Stage 3 – the Council receives the Investigating Officer's report and determines whether or not to refer the matter to a formal hearing, and

Stage 4 – a formal hearing at which witnesses etc., are called to give evidence.

- 2.4 The general guidance is that Standards Committees will need to minimise the potential risk of failing to conduct the above processes appropriately. In order to ensure fairness for all parties, the Government propose that regulations will be made to prohibit members of the Standards Committee taking part in both stages 1 and 2.
- 2.5 Also, there has been much consideration throughout the country with regard to the rules of natural justice, and in particular, whether a member can take part in more than one stage.
- 2.6 Another issue, is that the new rules state that the Chair of a Standards Committee, or a Sub-Committee, must be one of the independent members of the Committee. Independent members in this context means a member who is not a Councillor.
- 2.7 The general guidance is that the Standards Committee run of three sub-committees. The following is an illustration of the sub-committees necessary to carry out the functions:-
- (i) Standards Committee (Initial Assessment) Sub-Committee,
  - (ii) Standards Committee (Review) Sub-Committee,
  - (iii) Standards Committee (Hearings) Sub-Committee.
- 2.8 It is recommended that each committee comprises three members, including an independent member who will chair the meeting. There are conflicting views as to whether or not members who have considered the matter of either stage 1 or 2 should be able to consider the matter of either stage 3 or 4. It is also not clear, at the moment, whether stages 3 and 4 can be undertaken by one committee. This matter will be clarified when the regulations are made.

### **3.0 RECOMMENDATIONS**

- 3.1 That three Sub-Committees each comprising three members be established as outlined in paragraph 2.7.
- 3.2 The Committee considers which independent member shall chair the respective sub-committees.
- 3.3 That the remaining two members for each sub-committee be selected on a rota basis.

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