

DRAFT GUIDANCE ON STANDARDS COMMITTEES

1 PURPOSE

- 1.1 This report brings to Members' attention a recently published consultation paper by the Department of the Environment, Transport and the Regions in respect of Standards Committee. Comments are requested by 9th March, 2001.

2 INTRODUCTION

- 2.1 Under Section 53 of the Local Government Act 2000, every local authority will be required to establish a "standards committee". The Government is proposing to regulate the way in which authorities go about establishing standards committees and the procedures under which such committees should operate. The consultation paper represents the Government's initial thoughts in setting about this task, prior to proceeding to issue regulations in the springtime.

3 DETAILED CONSIDERATIONS

- 3.1 The Local Government Act 2000 requires all local authorities in England (except Parish Councils) to establish standards committees for the purpose of promoting and maintaining high standards of conduct in the Authority and assisting the Authority's Members' to observe the Authority's code of conduct. District Councils' standards committees are also to have responsibility for the promotion and maintenance of the standards of conduct in parishes in their area.
- 3.2 In promoting high standards of conduct in authorities, standards committees will be specifically required to advise the authority on the adoption of its code of conduct. Authorities must adopt such codes within six months of the Government issuing a model code of conduct. The Government expects to issue the model code, following consultation, in mid 2001. The Government therefore considers that authorities will want to have set up standards committees by that time.
- 3.3 This Consultation Paper sets out the Government's views in connection with:-
- the size of standard committees
 - their composition
 - the appointment of independent Members

and the operation of standard committee meetings in respect of -

- agendas
- records
- public access
- publicity
- proceedings

4 SIZE OF COMMITTEES

- 4.1. By virtue of the Act, standards committees must have a minimum of three members. However, there are no restrictions on the maximum size.
- 4.2 The Government believes that effective standards committees are likely to be fairly small. The best available evidence suggests that the majority of standards committees that have been established under the 1972 Act have no more than seven members. The Government, however, is reluctant to use the regulations to place upper limits on the size of standards committees. Wherever the limit is set, there will always be situations where an authority might have been justified in establishing a larger committee. The Government believes that the size of committees should be for local decision and does not propose to use the regulations to impose upper limits. The Government, therefore, is seeking views as to whether there is any need to limit the maximum size of standard committees.

5 COMPOSITION OF COMMITTEES

Independent Members

- 5.1 The Act requires that every standards committee includes at least one independent member. The Government considers that it is important that the independent voice is not drowned by that of other members of the committee. To guard against this, the Government proposes to regulate so that at least 25% of a standard committee's members must be independent of the authority.

Executive Members

- 5.2 The standards committee of an authority will be responsible for assisting all members and co-opted members of the authority to maintain high standards of conduct.

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- 5.3. The Act already prevents the elected mayor, or executive leader, of an authority from being a member of its standards committee. Nor can the committee be chaired by a member of the executive. However, the Government does not believe that executive members should never be members of standards committees. Arguably, many of the most difficult issues of conduct could arise in relation to decision making and the exercise of the executive function. It is therefore important that an appropriate balance is established and that committees are not seen to be creatures of the executive. The Government therefore proposes to limit the number of executive members allowed to sit on standards committees to just one.

Parish Members

- 5.4 The Act requires district councils to promote high standards of conduct in the parishes for which they are responsible through their standards committee, or by means of a sub-committee appointed for that purpose.
- 5.5. The Act therefore requires that a representative of the parishes is present when parish affairs are dealt with through the main standards committee or a sub-committee. In addition, where parish issues are discussed in a sub-committee, an independent member of the standards committee must also be present. The Government believes that it would be helpful to go further than this. Looking at the basic work of standards committees:-
- advising the council on its code of conduct
 - providing guidance and training to members
 - reviewing the code, or the council's procedures, in the light of guidance from the Standards Board or recommendations from Adjudication Panels.

some issues are likely to arise which will be common to both the district and its parishes. Where a sub-committee has been set up to deal with parish matters, it might nevertheless be helpful if the main committee were to have the capacity to discuss parish issues. For this reason, the Government proposes to use the regulations to require district and councils to include a parish member on their standards committees, even where they have adopted a sub-committee structure. A parish presence on both the main and sub-committees would help ensure there was a degree of continuity between their work.

- 5.6. The Government believes that it will be important that the parish voice on committees and sub-committees should be seen to be wholly independent of the district. It therefore proposes that the parish representative on a committee or sub-committee cannot be both a member of the parish and district council.
- 5.7. Through the consultation paper, the Government is therefore seeking views as to whether:-
- the Government is right to require a minimum number of independent members
 - 25% is the right proportion of independent members
 - the number of executive members on the committee should be limited and limited to one
 - committees in districts councils should be required to include a parish member, even where they deal with parish issues through a sub committee
 - members who serve on both the district council and a parish, be prevented from being the parish representative on standards committees and/or sub-committees.

6 APPOINTMENT OF INDEPENDENT MEMBERS

- 6.1 The role of independent members will be important to the public's perception of the effectiveness of standards committees. It will be important that such members are seen to be genuinely independent of the authority. The Government believes therefore that the regulations must provide for an appointment process that guarantees the independence of such members.
- 6.2 The Government proposes that authorities should be required to advertise for independent members in two or more local newspapers, including, where they publish one, the authority's own newspaper.
- 6.3 All applications should be considered by a selection panel set up for that purpose by the authority, who will make recommendations to the full council. The Government does not propose to regulate the size, composition or rules under which the panel should operate.
- 6.4 As a further safeguard of independence, it will be important that the independent member is seen to command the wide support of the council. The panel's recommendations, therefore, will have to be agreed by at least 75% of the council.

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- 6.5 It is also proposed that a person should be disqualified from being an independent member if he, or she, is related to, or has a close friendship or relationship with a member or officer of the authority, which might reasonably be thought to prejudice the person's independence, or if he or she is a co-opted member of a committee or sub-committee (other than a Standards Committee) of that authority or some other relevant authority.

7 AGENDAS & RECORDS, PUBLIC ACCESS & PUBLICITY

- 7.1 The Government proposes that-
- the meetings of standards committees and sub-committees should be open to the public unless a confidential or exempt item of business is under discussion
 - the public should be given at least three clear days notice of the time and place of a standards committee or sub-committee meeting. Such notice should be posted at the offices of the relevant authority and, where relevant, the parishes for which that authority is responsible; an agenda should be made available three clear days beforehand and
 - agendas and other records of the meeting (i.e. minutes and reports) should be kept available for inspection for six years from the date of the meeting
- 7.2 The Government would welcome views on these aspects.

8 VALIDITY OF PROCEEDINGS

- 8.1 Standards committees and sub-committees have an important role to play in the promotion and maintenance of high standards of conduct within authorities. Members of the authority and, in the case of district councils, parish members must have confidence in the proceedings of the committee. Committees need also to retain the respect of the wider public. It will be important, therefore, that independent and parish members are not excluded from the meetings of committees and sub-committees.
- 8.2 The government proposes that the proceedings of a committee or sub-committee should not be valid unless:-
- 2 members of the committee (or sub committee) are present
 - in 2, 3, or 4 member meetings, at least one independent member is present
 - in larger meetings, at least 2 independent members are present

- at a meeting of a committee, or sub-committee, of a district council, the parish representative is present.

Again, the Government is requesting views on these points.

9 OFFICER COMMENTS

Size of Committees

- 9.1 It is interesting to note the Government's contrasting approach on this matter relative to the guidance given in respect of the proposals on the 4th option – alternative arrangements – for new political structures. There the Government has specified a maximum of 15 Members for a committee and 10 Members for a sub-committee.
- 9.2 If the Government truly believes that the size of committees should be a matter for local decision, then it should also apply this rationale to the guidance on the 4th option – alternative arrangements – new political structures.
- 9.3 For Members' information, the size of the proposed standards committee in the preferred model for a new committee structure considered by this Council comprises 5 Members. However, if the final regulations reflect the content of this consultation paper, then this number will need to be reconsidered.

Composition of Committees

- 9.4 The prescriptive nature of the guidance on this is in contrast to the flexibility demonstrated in respect of the overall size of the standards committee. There is also a contrast within the composition arrangements themselves between the way in which the various representative elements are treated.
- 9.5 There seems to be little justification behind the Government specifying a minimum number of independent members and suggesting a minimum level of 25%. Similarly, fixing the number of executive members to one and one only and proposing a single parish representative. In practical terms, such a proportional split would mean that the minimum size for a standards committee, if a Council wished to include at least one non-executive members, would be 4.
- 9.6 The importance of public perception in the functioning of standards committees is recognised but if the Government considers that local authorities can properly determine the overall number of members for such a committee, then it could also demonstrate more faith in local authorities by affording them more local discretion in determining the overall composition of these committees.

- 9.7 Whilst the responsibility placed on District Councils in respect of the standards of conduct of parish councils is recognised, the role/relationship between District Councils and their parish councils is a longstanding one and to be so prescriptive about the need and level of parish representation, together with no Councillor, who is both a District and parish Councillor, being able to represent the parish view, would appear to add a layer of unnecessary detail. It also applies a rationale in separating out District and parish interests which has not been apparent in other legislation and initiatives to date.

Appointment of Independent Members

- 9.8 Again, the level of prescription raises concerns as does the resources that may be required to advertise, interview and appoint. It is interesting that the consultation suggests agreement by at least 75%, of the Council to an appointment. Why not a simple majority as with normal Council business?
- 9.9 The consultation is silent in terms of fall back positions. What happens if there are insufficient candidates, none are recommended for appointment after interview or fail to get a 75% support amongst councillors? What can authorities do in such instances? Also, the consultation is silent on the issue of remuneration for independent members/parish council representatives, although it is understood that such attendees would be eligible for payment

Agendas, Public Access, etc.

- 9.10 These aspects of the consultation paper are generally supported. However, if meetings are convened at short notice it may be difficult to ensure that the notice is actually up at the parish office in time. It would be better if the guidance stated that it was 3 clear days at the District Council offices and at parish offices as soon as practicable thereafter.

Validity of Proceedings

- 9.11 In general terms, these points are supported although in relation to attendance and the numbers and types of representatives present, the consultation guidance is considered to be too prescriptive and should be considered in the context of the comments made above on composition. It is felt that the normal committee procedure relating to a quorum should apply.
- 9.12 Also, the guidance is silent on the issue of substitutes and it is felt that this matter should be covered in the finalised regulations.

10 CRIME AND DISORDER IMPLICATIONS

- 10.1 The operation of a Standards Committee should help to promote and maintain high standards of conduct within the Authority.

11 RESOURCE IMPLICATIONS

- 11.1 There will clearly be both Member and officer resources involved in the establishment and operation of such a committee. However, until it is up and has been running for a period, it would be difficult to quantify its resource implications with any confidence.

12 LEGAL IMPLICATIONS

- 12.1 As outlined in the report, Standards Committees are required by law.

13 PARISH IMPLICATIONS

- 13.1 These are set out in the report.

14 RECOMMENDATION

- 14.1 That subject to Members' consideration and comments, the officers' views outlined above form the basis of this Council's response to the Government's consultation paper on Standards Committees.

Paul Warren

Chief Executive

Background Papers:

Government Consultation Paper

For further information please contact Paul Warren on:-

Tel:- 01702 318199
E-Mail:- paul.warren@rochford.gov.uk