

**COMMITTEE: STANDARDS**

**DATE: 12 FEBRUARY 2008**

**SUBJECT: DEPARTMENT OF COMMUNITIES AND LOCAL  
GOVERNMENT CONSULTATION PAPER: ORDERS AND  
REGULATIONS RELATING TO THE CONDUCT OF LOCAL  
AUTHORITY MEMBERS IN ENGLAND**

**REPORT BY: MONITORING OFFICER**

**CONTACT OFFICER: RICHARD STEVENS**

**TEL: 01582 546020**

**IMPLICATIONS:**

<b>LEGAL</b>	<input checked="" type="checkbox"/>	<b>COMMUNITY</b>	<input type="checkbox"/>
		<b>SAFETY</b>	
<b>EQUALITIES</b>	<input type="checkbox"/>	<b>ENVIRONMENT</b>	<input type="checkbox"/>
<b>FINANCIAL</b>	<input type="checkbox"/>	<b>OTHER</b>	<input type="checkbox"/>
<b>STAFFING</b>	<input type="checkbox"/>	<b>OTHER</b>	

**WARDS AFFECTED: NONE**

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**PURPOSE**

1. The purpose of this report is to invite the Committee to respond to a Consultation Paper issued by the Department of Communities and Local Government (the DCLG) relating to the proposed detailed arrangements for the operation of the local assessment of complaints against members.

**RECOMMENDATION(S)**

2. That the Committee consider the DCLG Consultation Paper, the suggested response at Appendix B and to determine the response they wish to make.

**BACKGROUND**

3. The Committee has received a number of previous reports relating to the proposal to introduce local assessment of complaints about member conduct. This is provided for in the Local Government and Public Involvement in Health Act 2007 and will come into operation later this year. The new arrangements will reverse the current position under which all complaints against members have to be sent to the Standards Board for England (the SBE) who then decide

whether or not they will be investigated and whether or not they will be referred for local investigation. Under the new arrangements complaints will be made to Local Authority Standards Committees who will carry out an assessment (the local assessment) as to whether the complaint should be investigated and, if so, whether locally or referred for investigation by an Ethical Standards Officer (and “ESO”). The Committee is referred to my reports to their meeting on 11 May 2005 (Ref: SC/05/6.5), 23 November 2005 (Ref: SC/11/05/6/3), 26 April (Ref: SC/04/06/6.2), 8 November 2006 (Ref: SC/11/06/6.4) and 1 February 2007 (Ref: SC/02/07/7.3).

## **REPORT**

4. In early January 2008 the DCLG published a Consultation Paper entitled “Orders and Regulation Relating to Conduct of Local Authority Members in England”.

The Consultation Paper sets out the proposed detailed arrangements which it is proposed should apply to the operation of the local assessment. The Consultation Paper poses 16 specific questions (these are summarised in Annexe A to the Consultation Paper). The deadline for response is **15 February 2008**.

5. The Chair and I have discussed the Consultation Paper and, having regard to the relatively short deadline for responses after the date of the Committee meeting, have prepared a suggested response to which the Committee may wish to have regard. The Committee, is of course, free to make its own determination in relation to any of the questions.
6. There is one matter which merits particular comment and that relates to Question 1 and the proposal to allow a member who has participated in an initial assessment or in a review to participate in any subsequent hearing. The view of the SBE is that this is acceptable and on balance I accept this view. Resources implications do need to be taken into account. The Committee will bear in mind that, some while ago, the Council decided that complaints against members, where they come to local hearing, should be determined by a panel of three Independent Members and that elected members would not participate. A number of Local Adjudication Panels have been established on this basis. The Chair is of the view that the exclusively independent element of the process should be maintained as far as is both lawful and possible. Although not part of the response to the Consultation Paper it is, therefore, being proposed, at the Chair’s suggestion, that initial assessment be carried out by one of the Local Adjudication Panels. If there is a review (and there would only be able to be a review if the Local Adjudication Panel determined that there should be no investigation) then the review should be heard by a Panel consisting of three elected members and one Independent Member, with the Independent Member being the Chair of the Panel and therefore having a casting vote. Any subsequent hearing should be heard by a Local Adjudication Panel consisting, as far as is possible, of two Independent Members who had not participated in the initial assessment. With the current number of Independent Members, there will always have to be at least one Independent Member on the Local Adjudication Panel convened to conduct the hearing who had also been on the Local Adjudication Panel which had conducted the initial

assessment. If these proposals are accepted then this could be operated with no increase in the overall membership of the Committee or in the number of Independent Members.

### **LEGAL IMPLICATIONS**

7. There are no legal implications other than those set out in this report and this has been agreed with the Head of Legal Services on 25 January 2008.

### **EQUALITIES IMPLICATIONS**

8. There are no equalities implications to this report.

### **FINANCIAL IMPLICATIONS**

9. Depending on the number and the nature of complaints received, the operation of the new system could involve the Council in additional expenditure. It is difficult to quantify this but if there were, say, three complaints in a year this could lead to expenditure of around £10,000. For the coming financial year this would have to be managed within existing budgets but clearly this will have to be kept under review for future financial years if the financial pressures become significant. This has been agreed with the Finance Manager, Customer and Corporate Services on 30th January 2008.

### **APPENDICES**

10. The following Appendices are attached to this report:

Appendix A: - DCLG Consultation Paper, Orders and Regulations relating to the conduct of Local Authority members in England.

Appendix B: - Suggested response to Consultation Paper

### **LIST OF BACKGROUND PAPERS**

#### **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

1. Department of Communities and Local Government Consultation Paper: Orders and Regulations relating to the conduct of Local Authority Members in England.