

PROPOSED CHANGES

1. Disclosure of the details of the complaint

The Monitoring Officer has no authority to disclose the details of the complaint to the subject member. The details should only be passed on if the Monitoring Officer has obtained the complainant's consent. However, it should be noted that in the absence of consent, the decision about disclosure is to be taken by the Assessment Sub-Committee. Some authorities will only pass on the information specified in the Standards for England guidance.

The provisions of Regulations 11 and 12 of the Standards Committee (England) Regulations 2008 and section 63 of the Local Government Act 2000 with modification means that the Monitoring Officer is only authorised to disclose information obtained for the purpose of enabling a standards committee, sub-committee of a standards committee or an appeals tribunal drawn from the Adjudication Panel for England, to perform any of their functions under Part 3 of the Act or Regulations made under that Part. This does not include disclosure to the member who is the subject of the complaint

2. Consideration and Pre-Hearing Sub-Committee

Regulation 17 (1) of the Standards Committees (England) Regulations 2008 provides that where a complaint has been referred for an investigation and after that investigation has been undertaken by an Investigating Officer and the Investigating Officers report passed to the Monitoring Officer, the Standards Committee (or sub-committee) shall convene to consider the report and make one of the following findings: -

- (a) That it accepts the Monitoring Officer's findings of no failure (a finding of acceptance)
- (b) That the matter should be considered at a hearing of the Standards Committee conducted under regulation 18
- (c) That the matter should be referred to the Adjudication Panel for determination.

The requirement for any hearing to be conducted within three months of receipt of the Investigator's Report means that matters must be referred promptly to a Sub-Committee of the Standards Committee by the Monitoring Officer. Standards for England's guidance suggest that this should be to a "Consideration and Hearing Sub-Committee".

The procedure set out in the Regulations is an additional stage on the conclusion of the Investigating Officer's Report and should be held prior to the pre hearing process and arranging a preliminary date for the hearing.

Effectively, the Consideration and Hearing Sub-Committee must decide whether to accept the finding of no failure to comply with the code if the investigating Officers report draws a conclusion that there has been no breach or whether they still wish to meet and conduct a formal hearing. If there is a conclusion in the Investigating Officer's report that there has been a breach, they must still meet to resolve to hold a hearing. The rationale for this additional step is both to identify any issues which might arise in the pre hearing process and also to decide if the matter is so serious that it should be referred to the Adjudication Panel who has a wider range of sanctions available to them.

3. Frequency of meetings

It is proposed that there should be a programme of meetings for the Referral Sub-Committee, with one meeting scheduled per calendar month. Meetings will only be confirmed and held if one or more written allegation of member misconduct is received. The assessment must be carried out within 20 working days of receipt of the complaint. This means that an Assessment Sub-Committee must be held and deliberations completed within that timescale

4. Substitute members

To overcome the difficulty of convening Sub-Committee meetings within the short time constraints, it is proposed that Substitute Members could be permitted (for Borough and Parish Councils). However, it is recommended that substitutes should only be used if they have received the necessary training.

It should be noted that the Standards for England's guidance does not encourage the use of substitutes to ensure that committees are politically balanced and suggests that independent members are used instead. There are currently only three independent members, so this may not always be an option. Any decision about commencing a recruitment campaign for more independent members can be taken once there is certainty about the future of the standards regime.

5. Update Terms of Reference

The Terms of Reference for the Standards Committee, the Assessment, Appeals, Consideration and Pre-Hearing and Hearing Sub-Committees have been included or updated to ensure compliance with the Standards Committee (England) Regulations, other relevant legislation and Standards for England's guidance, including referral to Monitoring Officer for further action.

6. Politically restricted posts

From 1 April 2008, responsibility for granting exemptions to inclusion on the list of politically restricted posts was passed to the Standards Committee by Section 3A of the Local Government and Housing Act 1989

7. Part 4 – Procedure Rules

Local Assessment and Determination Procedure Rules – to be re-drafted and submitted to the Standards Committee on 3 August

8. Part 5 – Code and Protocols

Monitoring Officer Protocol – to be re-drafted and submitted to the Standards Committee on 3 August to include:

- steps to be taken on receipt of a complaint
- Notification of decisions
- Referral of investigation and “other action”
- Other statutory duties imposed by Section 5 of the Local Government and Housing Act 1989