



Leicester
City Council

**WARDS AFFECTED
ALL WARDS**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
STANDARDS COMMITTEE**

6 MARCH 2008

**ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY
MEMBERS IN ENGLAND - CONSULTATION**

Report of the Town Clerk

1. PURPOSE OF REPORT

To inform Members of the Committee of the consultation on the new Conduct regime, and the response submitted by the Town Clerk to the Department of Communities and Local Government.

2. SUMMARY

This report summarises the provisions of draft regulations for Members' information.

3. RECOMMENDATIONS

This report is for information.

4. REPORT

- 4.1 The consultation document, Orders and Regulations Relating to the Conduct of Local Authority Members in England, was circulated on 3 January 2008. The Orders and Regulations relate to the new arrangements for the operation of local Standards Committees and the redefined role of the Standards Board for England. A full copy of the Consultation document is available from Kate Owen on 229 8822 or via the website www.communities.gov.uk
- 4.2 Part 10 of the Local Government and Public Involvement in Health Act 2007 provides for the new ethical conduct regime. The primary aim of the new regime is a far greater degree of devolution of investigations to local Standards Committees, with the Standards Board for England taking a monitoring, performance and oversight function, with some involvement in investigations of the most serious complaints.
- 4.3 Local Authorities were asked to comment on proposals for guidance to be issued to govern the operation of the new system. The numbering below reflects the numbering of the questions in the consultation document.

4.4 Summary of Provisions

1. Standards Committees will now have the power to make an initial assessment of an allegation of misconduct. The Standards Board will have a revised strategic role. Standards Committees will now have authority to make the initial assessment of an allegation of misconduct, and to decide whether there is a need for action. In order to maintain the integrity of the process, no Member involved in a decision not to take action should be involved in any subsequent review of that decision.

It is therefore proposed that Standards Committees operate sub-committees to fulfil these distinct roles.

However, it is not proposed that members involved in the initial assessment may not be involved in any subsequent hearing, for reasons of demands on Independent Members' time.

2. Where a member who is the subject of an allegation is a Member of two authorities it is proposed that the respective Standards Committee are empowered to agree locally how the matter should be dealt with.
3. The suggested timescale for making an initial assessment is 20 (working) days.

It is proposed that Committees should publish a notice setting out where allegations should be submitted to when the new regime is introduced. The Standards Board for England would produce guidance as to the content of the notice.

4. The new regime requires Committees to provide a written summary of any allegation(s) to the person who is the subject of the allegation. However it is proposed that the guidance will give Committees discretion not to do so in exceptional circumstances (for the preservation of evidence and/or protection of witnesses) where it considers the provision of this information to be not in the public interest.
5. It is proposed that the guidance will prescribe when the Monitoring Officer should make reference back to the Committee in the course of an investigation, specifically if the nature of the allegations differs in seriousness to the initial assessment, or if further potential misconduct is discovered.
6. To reflect the increased localisation of the regime, it is proposed that Committees will have increased powers of sanction. The current maximum sanction is three months suspension from office; the proposal is to increase this to six months.
7. Existing rules relating to an Independent Member chairing the Committee will continue to apply... The guidance suggests that Sub-Committees should also be Independently chaired.
8. It is proposed that the proceedings of Standards Committees will be exempted from access to meetings legislation on the grounds of confidentiality.

- 9/10. The Standards Board will monitor the performance of local committees and will have the power to remove responsibilities from Committees, in the last resort, for repeated unaddressed failures in process, consistency, timeliness and reporting. Other local Committees may be asked to take on the work of failing committees and views are sought as to whether this should be chargeable, and if so whether such a levy should be fixed.
11. It is proposed that the guidance would provide for Committees to formalise joint working arrangements with neighbouring authorities.
12. It is proposed to extend the powers of sanction available to the Adjudication Panel where it finds that the Code has been breached. The sanctions available will be:
- Censure
 - Restriction of access to Council premises (up to 12 months)
 - Requirement to apologise
 - Requirement to undertake training
 - Requirement to undertake conciliation
 - Suspension or partial suspension until apology delivered
 - Suspension or partial suspension until training/conciliation completed
 - Suspension or partial suspension for up to 12 months
 - Disqualification for up to 5 years
13. It is proposed that Ethical Standards Officers will have the power to withdraw reference in exceptional circumstances, e.g. where another body such as a court has applied a sentence greater than any available to the Panel, e.g. imprisonment, for the conduct subject to complaint.
14. In respect of allowing dispensations to preserve political balance, some clarification is proposed to remove perceived existing ambiguity. The Committee will be able to grant dispensations where otherwise a party would lose or gain a majority or members eligible to vote.
16. It is intended to introduce the new regime with effect from 1 April 2008.

4.5 Commentary submitted to the Department for Communities and Local Government

1. The main proposal is the right balance and is supported. Members cannot review their own decisions but a filtering decision should not automatically exclude a Member from hearing the substantive case. That would be unnecessary in all cases and create resourcing problems. However, the Regulations should not be prescriptive about whether decisions are taken in full or sub-committee, so long as there is separation of involvement where necessary.
2. The proposal to allow jointly interested committees to determine local arrangements is supported. Committees failing to agree on a way forward would be very unlikely.

3. 20 working days is a reasonable timescale. Public notices are ineffective as publicity tools. There should be a duty to give effective publicity, by methods determined locally.
4. The discretion not to advise a Member who is subject to a complaint is supported but the guidance should offer indicative examples of where this might apply.
5. It is not felt that prescribing when a Monitoring Officer should report back is necessary, as this merely reflects Monitoring Officers' normal professional practice and there is no need for Regulation. The guidance only needs to indicate a general discretion for referral and reporting back.
7. In respect of Independent Chairing of Sub-Committees, it is felt that their should be a discretion not to have an Independent Chair for an initial assessment sub-committee meeting, if for reasons of practicality and timeliness this cannot be arranged. However, a mixture of independent and Elected Member input should be retained (i.e. reflecting the quorum of the full Committee).
8. The proposal to exempt Committees from access to meetings legislation is strongly supported.
9. The need for monitoring is recognised but particularisation of potential failing is unhelpful as all sets of circumstances cannot be predicted.
10. Committees should have power to charge authorities on whose behalf they may be operating. This charge should not be prescribed as the nature of the work done is likely to vary significantly.
11. The authority already enjoys productive working relationships with neighbouring councils and the formalisation of joint working is considered to be cumbersome and unnecessary for a unitary authority.
12. The sanctions imposable are appropriate and the more rigorous sanctions should be applicable where there is failure to comply with an earlier sanction (e.g. requirement for training or apology). Guidance is desirable on the level of appropriate sanctions dependent on the seriousness of the breach. Similarly, guidance would be useful on the imposition of sanction for "repeat offenders", i.e. where a Councillor complies with a sanction but goes on to repeat the conduct.
13. The power of the Ethical Standards Officer to withdraw reference to the Adjudication panel is supported.
14. Leicester was one of the first authorities to recognise the existing ambiguity and has not used the power due to the uncertainty. The new proposal is clearer, but does not address the fundamental problem of sweeping aside prejudicial interests (where a personal interest may influence a vote) for reasons of political expediency.
16. The introduction date is appropriate.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

There are no financial implications arising from this consultation. The financial implications of the new regime will be assessed in due course.

5.2 Legal Implications

This consultation is in accordance with the Government's code of practice on consultation.

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph Within the Report	References
Equal Opportunities	No		
Policy	No		
Sustainable and Environmental	No		
Crime and Disorder	No		
Human Rights Act	Yes	4.5.1, 4.5.4	
Elderly/People on Low Income	No		

8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Consultation document – Order and Regulations relating to the Conduct of Local Authority Members in England.

9. CONSULTATIONS

Independent Members of the Standards Committee

10. REPORT AUTHOR

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