

APPENDIX

Guidance issued by the Standards Board for England on 17 July 2008, with comments and action points added in italics.

The Role and Make Up of Standards Committees

Contents

Introduction

Functions of standards committees

Size and composition

Independent members

Parish and town council representatives

Other members

Supporting standards committees

Operation of standards committees

Introduction

This guidance on the role and make-up of standards committees reflects the Standards Committee (England) Regulations 2008 (the regulations). The regulations are mandatory and this guidance must be taken into account by your authority. It is aimed primarily at members of standards committees and monitoring officers but will also provide a useful reference tool for all members and officers.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Members of parish and town councils may also find this guide useful. The Local Government Act 2000 says that your authority must set up a standards committee. The regulations set out the rules governing the size and composition of a standards committee and should be read alongside this guidance.

Throughout this guidance we use the term 'independent member' to describe members appointed by the authority under Section 53(4)(b) of the Local Government Act 2000, and Regulation 5 of the regulations. You may also like to consult our guidance **Local assessment of complaints**. You can contact the Standards Board for England on 0845 078 8181 or email enquiries@standardsboard.gov.uk

Comment: - *The guidance applies to the Council. The Council has set up a Standards Committee which currently comprises 6 Members of the authority, 2 Parish Councillors and 3 Independent Members, none of whom are Councillors or Officers of the Council, or any other body having a Standards Committee. At its meeting on 13 March 2008, full Council agreed that a fourth independent person be appointed. The appointment has been held in*

abeyance, pending guidance from the Standards Board. Now that the guidance has been published, it is appropriate to progress the appointment. The Council's written Constitution has already been amended to reflect the additional member.

Action point: - The Director of Strategy & Governance progress the appointment of a fourth Independent Member.

Functions of standards committees

The main role of a standards committee is to promote and maintain high standards of conduct throughout its authority. One of the aims of setting up a standards committee is to create a sense of 'ethical well-being' in the authority. The Standards Board for England believes there needs to be a culture of high standards in every authority. Each authority has the opportunity to reinforce its position as a leader in standards of conduct, setting an example to other bodies it works with, and to the community at large. Standards committees, and indeed monitoring officers, are at the heart of the standards framework. They promote, educate and support members in following the highest standards of conduct and ensuring that those standards are fully owned locally. Standards committees have a key role to play in creating an ethical organisation and setting an example for their councils. Indeed, creating and maintaining an ethical organisation is not just about adopting and enforcing the Code. It is also about relationships, both internally between members and authority staff, and externally with members of the public and other stakeholders. It is about how the authority relates to the community and other stakeholders, and improves the service it provides. Standards committees have the following functions:

Main functions

- to promote and maintain high standards of conduct for members
- to help members to follow the Code of Conduct

Specific functions

- to give the council advice on adopting a local Code
- to monitor the effectiveness of the Code
- to train members on the Code, or arrange for such training
- to assess and review complaints about members
- to conduct determinations' hearings
- to grant dispensations to members with prejudicial interests
- to grant exemptions for politically restricted posts

The functions set out in this section should be included in the committee's 'terms of reference'. Standards committees can also undertake other functions as they consider appropriate. The Audit Commission has recommended that authorities set up audit committees. The role of the standards committee should complement the role of the audit committee. While the audit committee should oversee the financial processes, standards committees should take the lead on promoting good ethical conduct. It is important that committees are clear about their roles and responsibilities, and that there are clear distinctions in their terms of reference. This will avoid confusion, disputes and possible duplication. If you change the terms of reference of your standards committee, you must send a copy of the amended terms of reference to us. We are happy for you to email this to us at enquiries@standardsboard.gov.uk

Comment: - *The functions of the Committee and its Panels are set out in Part 5.1 of the Constitution. These functions include all the main and specific functions set out above. The Council has delegated the following additional functions to the Committee -*

- (a) Responsibility for the overview and scrutiny of internal and external audit in so far as it relates to standards of conduct.*
- (b) Responsibility for the overview of the whistleblowing policy.*
- (c) At the request of the Governance Committee to review parts of the constitution and make recommendations to the Governance Committee and Council*
- (d) Receiving and considering reports or recommendations of the Monitoring Officer.*
- (e) Responsibility for the overview of complaints handling and Ombudsman investigations*
- (f) Supporting the Monitoring Officer in his/her role.*
- (g) Supporting the Chief Finance Officer in his/her role*

Adopting the Code of Conduct

Your authority must have adopted a local Code of Conduct by 1 October 2007, or as soon as possible after this date. In order to adopt a Code your standards committee must become familiar with the Model Code. Your local Code must include all of the provisions of the Model Code, and these cannot be changed. All of the provisions in the Model Code automatically apply, even if you do not adopt them all in your local Code. Your authority may also adopt extra provisions in its Code to suit local circumstances as long as those provisions are consistent with the Model Code. You can amend and readopt your local Code at any time as long as it still contains all of the mandatory provisions of the Model Code. We believe that all members should be judged by the same standards. If you add provisions to the Model Code, you should be aware that members will be assessed against these extra provisions. If you do add extra provisions, we advise you obtain legal advice to make sure these provisions can be enforced and do not breach any relevant law or regulation, such as the Human Rights Act. Standards committee members can act as examples to other members by supporting the adoption of the Code, and by discussing ethical issues widely with their colleagues. They should lead by

example in declaring the existence and nature of their interests at meetings, and by supporting and promoting attendance at training events. This will help keep the principles which govern the conduct of members and the Code at the centre of the authority's culture and values.

Comment: - *The current Code of Conduct for Members was adopted on 15 May 2008. It can be found in part 9.1 of the Constitution. It follows the wording of the national model code of conduct, although an extra provision has been added dealing with the voluntary notification to the Monitoring Officer of the membership of private clubs. All Members are made aware of the need to declare interests at meetings as there is a standing item in the preliminary part of all meeting agendas.*

Publicising adoption of the Code of Conduct

When your authority has adopted a Code of Conduct or a revised Code, the monitoring officer must publish a notice in one or more local newspapers. This notice should say that a Code has been adopted and that it is available for public inspection. If your council publishes its own paper and prints a notice in that paper, it must also print a notice in another local paper. The notice must say that it can be seen by members of the public at all reasonable hours. We would expect you to place the notice on your website, with links to your complaints' process and forms. Parish and town councils have the same duty as principal authorities to publish a notice in one or more local newspapers when they have adopted the Code. Your authority can help the parish and town councils in your area to do this. Advertising can be expensive, so bear in mind that one advertisement can publicise Codes for several authorities in your area, for example, several parish and town councils. If you decide to do this, the advertisement could simply list the authorities in the area that have adopted the Code and where it is available for the public to view. The advertisement should be placed in a publication covering all of the authority's area. Your authority can also advertise the Code on its website. But it must additionally publish its Code in one local newspaper, which excludes the newspaper in your own council. If you make amendments to your Code, you must send a copy of the Code you have adopted to the Standards Board for England. If you add provisions to the Model Code, you should highlight any changes before sending them to us. We are happy for you to email amended Codes to us at enquiries@standardsboard.gov.uk

Comment: - *A public notice was inserted into the Argus on 23 June 2008 following the adoption of the new Code of Conduct. A copy was sent to the Standards Board in the same month. The Code is accessible to the public through the Council's website, and at King's House. The responsibility for initial receipt of complaints about Members has recently transferred from the Standards Board to the Council and reference to this was made in the 23 June notice referred to above. A notice was also published on the website. The Council's approved assessment procedures include publicity provisions, in the following terms - "periodic, general awareness initiatives will be carried out by S & C to satisfy the requirement for updating/regular publicity about the Code complaints process."*

Training Members on the Code of Conduct

Standards committees are responsible for training members on matters relating to the Code of Conduct, or for arranging appropriate training to be provided. Training is an excellent way for your authority to set out the standards of conduct it expects from its members. The training should ensure that members know about the workings and implications of the Code, as they are required to sign an undertaking to comply with it. It would be good practice for standards committees to issue guidance notes or memos through their minutes to run alongside the Code. These could include guidance or protocols on local issues and an explanation of any extra provisions proposed to be added to the Code. This guidance could also be included in a members' handbook and placed on your website. If your authority is responsible for any parish or town councils, it must also make sure that training is available to members of those councils. You may want to consult county associations to see if they provide any training. We strongly encourage different tiers of local government to work together on ethical matters, particularly with training. This is because all members should know their rights and responsibilities, regardless of the type of authority. Standards committees may like to base the training around some examples of potential ethical misconduct. This will allow members to see some of the provisions in action. Case summaries of completed investigations into misconduct are available on our website at www.standardsboard.gov.uk. Alternatively, you can consult our *Case Review* publication which is also available on our website. Monitoring officers should be able to provide their standards committee with the training materials published by the Standards Board.

Comment: - *The Code of Conduct was covered in the induction programme for new Members following the May 2007 elections. In preparation for the adoption of the new code in September 2007, three briefing sessions were held, at different times of the day to maximise attendance. They were open to elected and co-opted Members. 27 of the Council's elected Members attended one of the sessions – the others were sent an information pack.*

Monitoring the effectiveness of the Code of Conduct

Standards committees need to monitor how effectively members are adhering to the Code of Conduct, the type of complaints received and how quickly these complaints are dealt with. This will help identify where problems are and what should be included in future guidance and training. Monitoring officers may provide overview reports to the committee highlighting these issues. Monitoring officers will also make quarterly and annual returns to the Standards Board for England on the operation of the Code in their authority and the standards framework locally. The Standards Board consulted authorities to determine how they will tell us that the local arrangements are working. We have designed a monitoring system based on what standards committees need locally. The system enables authorities to provide information to the Standards Board as simply as possible. Authorities will be

able to use the system locally for their own records, to keep standards committees informed of the authority's ethical activities.

Comment: - *The Director of Strategy & Governance submits regular reports to the Standards Committee on various aspects of compliance with the ethical standards provisions of the Local Government Act 2000. The Standards and Complaints Team is responsible for making the quarterly and annual returns to the Standards Board. The first return for the period 8 May to end of June 2008 was duly made within the 14 day period for returns.*

Giving standards committees a wider role

The Local Government Act 2000 allows your authority to give the standards committee extra functions to give them a wider governance role. Some standards committees do take on extra functions.

These may include:

- dealing with the protocol for members and authority employees' relations
- receiving reports on complaints procedures and/or reports from the Local Government Ombudsman or external auditors
- setting up the independent remuneration panel
- commenting on recommendations on members' allowances
- advising the council on the appointment of independent members

We believe that giving standards committees wider-reaching responsibilities is a positive step and will help promote confidence in local democracy. It will also provide a workload which is regular and interesting, and should in turn aid the recruitment and retention of independent members. Authorities should review their constitutions regularly, at least once every five years. A constitution should be a living document provided to members, available to the public and staff, and placed on your website. You may want to consider making the standards committee responsible for ensuring the constitution is designed to reduce the opportunity for misconduct and to promote effective governance. This will also mean that processes are properly accountable to both members and the public, and that relations with outside organisations are properly managed.

A wider role for standards committees can also be valuable for the following reasons:

- a work programme prevents ethics slipping off the agenda
- periodic ethical audits highlight any systemic weaknesses

- standards committees provide a useful structure for learning from the experiences and cases in other authorities
- standards committees can provide support to relevant officers when faced with a highly politicised environment

Comment: - See the section above on “functions of standards committees” for the additional functions delegated to the Standards Committee. The Council regularly reviews its constitution and has within the last year completed a major update.

Granting dispensations

Members can apply to their standards committee for a dispensation to allow them to attend meetings where they would otherwise be excluded because they have a prejudicial interest. This can happen when more than 50% of the council or a committee would be prevented from taking part in a meeting because of prejudicial interests, or when the political balance of the council or committee would be upset. Dispensations must be applied for in writing individually, and not as a group or authority. If the standards committee approves the application, it must grant the dispensation in writing and before the meeting is held. Only the standards committee can grant the dispensation and will do so at its discretion. Standards committees will need to balance public interests when granting dispensations. They will have to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of authority members. If a failure to grant a dispensation will result in an authority or committee not achieving the minimum number of members required for the group, this may be sufficient grounds for granting a dispensation. However, paragraph 12(2) of the 2007 Model Code of Conduct enables members to represent their community and speak on issues important to the community and themselves, even when they have a prejudicial interest. This is to support members’ roles as community advocates. If members have a prejudicial interest, under paragraph 12(2), they will be able to make representations, answer questions or give evidence relating to that business. This is provided that members of the public are also allowed to attend the meeting for the same purpose.

Note: there is a problem with the drafting of the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002. The political balance criterion for granting dispensations is linked to an authority being able to comply with its duty under the Local Government and Housing Act 1989. This duty requires the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings, either of the authority or its committees. For this reason, it is difficult to envisage circumstances in which the criterion would be met.

Comment: - The Council’s constitution acknowledges that the power to grant dispensations is vested in the Standards Committee, although in practice applications for dispensations are rarely made. The Standards Board has

recently advised the East Sussex Fire Authority that the Department for Communities and Local Government, the responsible Government department is aware of the difficulty caused by the drafting of the Relevant Authorities (Standards Committee) Regulations 2002, and is looking at amending them. There is no fixed date when this will take place.

Politically restricted posts

The Local Government and Public Involvement in Health Act 2007 imposed new duties in relation to politically restricted posts under the Local Government and Housing Act 1989 on standards committees. These are outside the scope of this guidance, but should be included in the standards committee's terms of reference.

***Comment:** - The Council's constitution acknowledges that the duties in relation to politically restricted posts are vested in the Standards Committee.*

Size & composition

You must have at least three people on your standards committee. It must include at least two members of the authority and at least one independent member. At least 25% of the members of the standards committee must be independent members. The chair of the standards committee must always be an independent member. You may therefore also want to appoint an independent member to act as vice chair of the committee in case the chair is unable to attend. If your authority has executive arrangements, you are permitted to have one executive member on the standards committee. However, this executive member must not be the elected mayor or leader. As the standards committee carries out a number of functions including the assessment of complaints and determination hearings, we recommend that your authority has at least six members on your standards committee. This is because different members will be required to carry out the different functions to avoid conflicts of interest. If your authority is responsible for any parish or town councils, at least two representatives from those parish or town councils must be appointed to your standards committee and they cannot also be members of your authority. A parish or town council representative must sit on the standards committee at all times when parish matters are being discussed. Please see the section on **Parish and town council representatives** on page (16) for further information.

***Comment:** - The Standards Committee complies with these requirements. Only one executive member is a member of the Standards Committee. The Chairman is one of the independent Members. At its meeting on 10 June 2008 the Committee agreed that the position of Deputy Chairman remain vacant, with one of the independent Members deputising in the event of the Chairman being unavailable.*

Independent Members

Independent members are important in helping increase public confidence in local government. They provide a clear signal that the standards committee acts fairly and impartially. Independent members also bring a wider perspective from their outside experiences. There is no limit to the number of independent members you can have on your standards committee. Indeed some authorities may wish to have a majority of independent members. Your authority decides how to select independent members and how long an independent member should sit on the committee. We recommend that you set a fixed period of four years. This will be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that they could be perceived as losing their independence. When re-appointing an independent member, you should bear in mind that we recommend that independent members should serve no longer than two terms, which is a maximum of eight years. It may be helpful for independent members to be appointed for differing lengths of time so that the experience they gain is not all lost simultaneously.

Comment: - The case for a maximum of 2 consecutive 4 year terms for any independent member appointed after May 2008 seems compelling. With local authorities now responsible for the receipt, assessment, investigation and determination of most complaints of Member conduct, it is probable that the Council's independent members will have more contact with Members than hitherto. Increased contact could be perceived as leading to a loss of independence. Staggered appointments, e.g. two independent persons appointed every two years, would ensure that the experience is not all lost simultaneously.

Although the Council's 3 independent members have served on the Committee for some years, their involvement with Member conduct issues has been limited. At this time, they therefore cannot be said to have lost their independence. It is therefore suggested that the 8-year maximum does not apply retrospectively. The terms of appointment of the Committee's independent members are unclear. It is therefore proposed that a report be brought to a future meeting suggesting how their appointments can be rationalised.

Action point: - That all new independent members of the Committee be appointed for a 4 year term, subject to a maximum of two consecutive terms.

Choosing an independent member

Independent members must be chosen in a fair and open way. A person can only be an independent member if that person:

- has not been a member or employee of your authority within the five years before the date of appointment

- is not a member or officer of that or any other relevant authority. Please see the section **Recruiting independent members from another standards committee** on **page (13)** for further information on when this does not apply
- is not a relative or close friend of a member or employee of your authority
- has applied for the appointment
- has been approved by a majority of the members of the council
- the position has been advertised in at least one newspaper distributed in your authority's area, and in other similar publications or websites that the authority considers appropriate.

The decision on which other publications or websites to use may be something that the authority delegates to the standards committee. The regulations say that a 'relative' means:

- a partner (a spouse, civil partner or someone a person lives with in a similar capacity)
- a parent
- a parent of a partner
- a son or daughter
- a stepson or stepdaughter
- the child of a partner
- a brother or sister
- a brother or sister of a partner
- a grandparent
- a grandchild
- an uncle or aunt
- a nephew or niece
- the partners of any of the people mentioned above

The regulations do not provide a specific definition of a close friend. The Standards Board for England's publication the *Case Review 2007* includes a section on defining a close associate, which might be helpful in identifying a close friend. The *Case Review 2007* is available at www.standardsboard.gov.uk. The regulations require a majority of all

members of the authority to approve the appointment. However, we believe that in practice, a report only needs to go to full council when selecting independent members. If so, we recommend that the monitoring officer ensures the majority of members approve, not just those attending the meeting. We recommend that the power to assist the recruitment of independent members is delegated to the standards committee by the authority and is included in the committee's terms of reference. A standards committee may appoint a sub-committee to take on some of its functions, for example, if your standards committee is asked to advise members of the council on the appointment of independent or parish members. If so, then the standards committee may set up a sub-committee of suitably trained members to shortlist and interview candidates and make recommendations to council. The sub-committee may find it helpful to have the monitoring officer and a human resources officer present to provide advice and assistance. An individual's membership of a political party does not automatically bar them from being an independent member of a standards committee. However, the more politically active an independent member is the less likely they will be seen as being independent. You should consider public perception before making an appointment of this sort. If you are finding it difficult to attract suitable people to become independent members, you should review the criteria in your advertisement to make sure they are reasonable. For example, you should make sure that the time you are asking the member to invest is reasonable for the role. You may also want to consider additional methods of attracting candidates. This could include:

- placing articles in the local press about the role of an independent member
- placing advertisements on your website or on your local radio station
- placing flyers in libraries, adult learning centres or places of worship
- advertising through other authorities' partnerships or through the local voluntary or community sector
- approaching your citizen's panel
- the personal approach. For example, contacting neighbouring authorities which may have more suitable candidates than they can appoint.
- approaching a person who is an independent member of a standards committee of a different authority. This person may also be appointed as an independent member of the standards committee of your authority. This is unless they were a member or officer of your authority within the five years preceding the appointment, or are a relative or a close friend of a member or officer of your authority. Remember that all the selection criteria for the position will still apply, so even if you approach someone directly, they must still make a formal application.

We recommend that the application form includes sections on:

- personal details
- qualifications
- summary of experience
- relevant expertise/skills

Accepting a CV with an application form may make the process easier for busy candidates. You may also want to consider online applications. We recommend that the monitoring officer should be involved throughout the recruitment process to advise the panel and the authority.

Comment: - *The current independent members were appointed following a public advertisement, competitive interview and formal confirmation of the appointment by full Council.*

Skills and competencies of independent Members

The competencies you should look for in an independent member include:

- a keen interest in standards in public life
- a wish to serve the local community and uphold local democracy
- high standards of personal integrity
- the ability to be objective, independent and impartial
- sound decision making skills
- questioning skills
- leadership qualities, particularly in respect of exercising sound judgment
- the ability to act as the chair of an assessment or review sub-committee or a determination hearing. Please see the section on **The role of the chair** on **page (13)** for further information on acting as a chair.

You should assess candidates looking for these qualities in interviews and any other assessment process you carry out. You also need to ensure that your authority complies with its duties under the Equality Act 2006. The human resources department of your authority may be able to advise you further on this matter. For further information on the recruitment of independent members, you may want to look at the recruitment pack produced by the Association of Council Secretaries and Solicitors (ACSeS). The pack provides practical advice on how to set about recruiting independent members, together with their roles and responsibilities. The pack can be downloaded at www.acses.org.uk

Comment: - *The independent member recruitment process involves the completion of an application form, interview and the taking up of references. These measures are designed to assess candidates' skills.*

Recruiting independent members from another standards committee

An independent member of one standards committee may also sit on other standards committees. For example, the member can sit on county and district, or county, police and fire authorities' standards committees. Independent members may also be temporarily appointed to another standards committee to consider a particular assessment, review or hearing or for a particular period of time. For example, it would be appropriate to appoint an independent member of a neighbouring standards committee for a short period in situations where the permanent member is unwell or if there is a conflict of interest. These appointments can be made without needing to advertise the position. The appointments do not need to be ratified by a majority of the members of the authority, but proper procedures should be in place to appoint independent members on a temporary basis. Independent members appointed on a temporary basis cannot have been a member or officer of that authority in their five years before the appointment, and cannot be a close friend or a relative of a member or officer of that authority. They must also comply with the Code of Conduct of each authority whose standards committee they sit on.

Comment – *The Standards Committee has given the Monitoring Officer delegated powers to exercise this new function so that appointments can be made without delay in emergencies.*

Ceasing to be an independent member

Under the regulations, any person appointed as an independent member who becomes a member or officer of an authority, or a relative of a member or officer of that authority, will no longer be able to be an independent member of that authority's standards committee.

Comment: - *Independent Members will need to keep this under review during their periods of service.*

The role of the chair

It is a legal requirement that the chair of the standards committee must be an independent member. It is important for the chair to be independent because of the key role they play in the business of the standards committee. By being independent, the chair can ensure that the standards committee's business is conducted in such a way that no one can question its integrity. Authorities should aim to select a person who will command the respect of members and the local community. We recommend that the decision on who should be appointed as chair be taken by the full council or delegated to the standards committee. You may also choose to appoint an independent vice chair for the reasons discussed in the section on **Size and composition** on **page (9)**. An

effective chair will ensure that the business of the meeting is completed while allowing a fair and balanced debate and any professional advice to be taken into account. The chair may summarise the points put to the committee, and will ensure that the meeting is run correctly from a procedural point of view. They will also ensure that the decisions made are accurately recorded. The chair is responsible for keeping order and adjourning meetings where necessary. They should also have a good level of assertiveness. It is also the chair's responsibility to ensure that members of the public and press leave the meeting when a private report is being considered. Please see the section **Skills and competencies of independent members** on **page (12)** for further information. Preliminary matters will often arise in relation to hearings. The chair, with the advice of the monitoring officer, may make initial process decisions in relation to such matters. However, it is important that the hearing committee or sub-committee considers and approves such arrangements. Ultimately, it is the way the chair operates independently, and is seen to operate independently, that should enhance confidence in the integrity of the standards committee. It is also the chair's status as an independent member, a role drawn from outside the authority and independent from the authority that should provide a clear signal that the committee is fair.

Comment: - *The Chairman is appointed by the Standards Committee. The current Chairman has been in this role since 2006 and has a background and experience fitting for the discharge of the role.*

Induction of independent Members

While it is not mandatory, we recommend that an induction programme should be provided for independent members. This should include training on the Code of Conduct and the functions of standards committees. Inductions should also include attendance at authority meetings, such as meetings of planning and licensing committees and the full council. If authorities are operating executive arrangements, then attendance at cabinet meetings and overview and scrutiny committee meetings should be part of the induction. Independent and parish representatives should also receive a copy of the authority's constitution. In addition, they should receive a copy of the Code of Conduct that has been adopted by your authority, the protocol for member/officer relations and any other protocol in use. The constitution should also include the authority's scheme of delegations of functions. Whistle-blowing policies, any policies and procedures under the Equality Act 2006, and the authority's anti-bullying policy should also be included. It may be helpful to add an A-Z of people in the authority, a list of authority services and the municipal calendar. There are a number of regional independent member organisations. Many authorities use a mentoring system to assist new independent members of standards committees. In some parts of the country regional groups of independent members have been established. Information relating to these will be helpful as may a list of useful websites. To find out if there is a regional group of independent Members in your area you should contact the Standards Board for England. The Association of Independent Members of Standards Committees in England (AIMSce) may

also be able to provide support. Information about AIMSce can be found at www.aimsce.org.uk Authorities may also want to consider making members' IT facilities available to both their independent and parish representatives.

Comment: - *All the current independent Members have served on the Standards Committee for a number of years, have knowledge of the standards regime and understand the basic political arrangements. Virtually all the documents which they need, including the Code of Conduct, are available to them on the Council's website.*

Action Point: - *That a tailored induction programme, appropriate to the needs of the new independent member be provided, and that one of the existing independent members acts as his/her mentor for 2 meetings of the Standards Committee.*

Remuneration for independent Members

Authorities must introduce an annual scheme for the payment of a basic allowance to their members, based on the recommendations of an independent remuneration panel. The annual scheme can also extend to the payment of other allowances, including a co-optee's allowance. A co-optee's allowance relates to a person who is not a member of the authority but is a member of a committee or sub-committee, for example an independent member of a standards committee. We recommend that independent members should be able to claim for financial loss, travel and subsistence. This will help attract those people that may have been deterred from the role because of the costs involved. Each authority must consider the recommendations of its panel as to whether it should provide for the payment of a co-optee's allowance and of travelling and subsistence expenses.

Comment: - *The Council's scheme of allowances set out in Part 10 of the Constitution provides for allowances to be paid to any independent Chairman and Deputy Chairman (if appointed). Independent Members of the Committee are also able to claim travel and subsistence allowances.*

Indemnities for independent Members

Where independent members are carrying out their statutory duties, they may be protected by their authority's indemnity arrangements under the Local Authorities (Indemnities for Member and Officers) Order 2004. We recommend that all authorities include independent members in their indemnity arrangements.

Comment: - *All co-opted Members, including independent Members are covered by the Council's Indemnity Scheme.*

Complying with the Code of Conduct and the register of Members' interests

Independent members must sign an undertaking to comply with the Code of Conduct and disclose their interests in the register of members' interests maintained by the monitoring officer, in the same way as other members. Complaints about the conduct of independent members must be treated in the same way as that of other members.

Comment-: *The independent Members have signed the undertaking and made declarations of interests.*

Parish and town council representatives

If your standards committee is responsible for parish or town councils we recommend you have a minimum of three parish or town council representatives on your standards committee, though the legal minimum is two. A standards committee with three parish or town council representatives will provide you with flexibility. It should allow the local assessment of complaints to be carried out if a parish or town council representative is unavailable or conflicted out. You may wish to increase the number further to avoid situations where the parish or town council representative is conflicted out, and to prevent the parish or town council representatives from feeling isolated. It will also avoid meetings having insufficient members, if the parish or town council representative is not present when issues affecting parish or town councils are discussed. This will bring the recommended total number of people on your standards committee to nine members. Having nine members means that you can meet the requirement of having a different parish or town council representative when the committee's sub-committees carry out each of the separate assessment and review functions. Please see our guidance **Local assessment of complaints** for further information. Your council must consult parish and town councils within its area to help decide if there should be a parish sub-committee to deal with some of its functions relating to parish and town council matters. Any parish sub-committee must include at least one parish or town council representative and at least one independent member. In addition, your council must consult parish and town councils to determine how many parish and town council representatives are needed and how long they should serve on the committee.

Comment: *- There are two Rottingdean Parish Councillors on the Standards Committee. As the Council is responsible for only one parish council, it is considered that the legal minimum of two representatives is adequate.*

Choosing parish and town council representatives

Your authority must decide how to recruit and appoint parish or town council representatives. Your parish and town council representative should have the trust of town and parish councils in your area, so you should involve them in the selection procedure. If you are finding it difficult to find a parish or town council representative, your local county association of local councils may be

able to help you. For example, the county association may be able to give you a list of possible candidates. They may also be prepared to conduct an election process for you. This process should receive the support of the parish and town councils in the area and show that you want to appoint standards committee members in a fair and open way.

Comment: - *To date, it has been left to the Rottingdean Parish Council to put forward representatives. There is no reason why this practice should be changed.*

Other members

Executive members on the standards committee

If the authority is operating executive arrangements, the standards committee does not need to include a member of the executive. However, you should consider whether it is appropriate to appoint an executive member. Appointing an executive member might show that the committee is supported and respected by all parts of the authority. Not having an executive member could reflect a degree of independence from the political leadership of the authority. Nevertheless, this is ultimately a decision for the authority.

Comment:-*Councillor Fallon Khan is both a member of the executive and of the Standards Committee.*

Elected members on the standards committee

Standards committees need not reflect the political balance of the authority. This is because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of the governing political party. It may be helpful to remind elected members of this when committee appointments are being made. It would be useful for your standards committee to include members who are supported by all political parties, particularly when the local assessment of complaints is carried out. This is so that greater trust and confidence can be established in the decision-making process among all political members. Standards committees should be seen as making judgments impartially and without regard to party loyalty. Elected members should consequently be mindful of this when serving on a standards committee. Elected members on standards committees should not be subject to a party whip. In other words, they should not be told how to vote on matters. Members should also remember that they must adhere to the Code of Conduct when serving on a standards committee. It is important when assessing complaints, reviewing assessment decisions and holding determination hearings that the sub-committee is properly constituted and that members are trained on the Code and the relevant legislation. We recommend that you keep a clear record of the training of all standards committee members. Some authorities provide refresher training before hearings.

Comment:- *The Standards Committee is not subject to the political balance regime, although all political groups are represented on it. Elected Members serving on the Standards Committee are not subject to the party whip. Panels are constituted in accordance with the relevant Regulations. Records of all organized training are maintained by Democratic Services.*

Substitute members

Some authorities operate a substitute system. This allows a substitute member to attend a meeting of the committee or sub-committee whenever a regularly appointed member cannot be present. This is often done to maintain the political composition. However, we do not recommend the use of substitutes for standards committees. Standards committees are not intended to operate along party political lines and therefore it is not necessary to ensure a political balance. In instances where all your independent members are unavailable, you would be able to substitute your independent members with independent members from another authority. Please see the section on **Recruiting independent members from another standards committee on page (13)** for further information. It should also be noted that nothing in the regulations requires a sub-committee of a standards committee to have fixed membership or chairmanship.

Comment: *- A substitute is entitled to attend all Council Committees, including the Standards Committee by virtue of Council Procedure Rule 18.13. However, the disadvantages of a substitution system are considered to outweigh any advantages. With a total membership of 11 members, it is unlikely that fewer than 3 members would attend, rendering any meeting of the Committee inquorate. It is therefore proposed that the Governance Committee which is responsible for reviewing the Constitution be requested to recommend to full Council that the substitute rule be disapplied in relation to the Standards Committee. In relation to the independent Members, the Committee has agreed to delegate to the Monitoring Officer the new power to appoint independent Members from the standards committees of other authorities. The aim is to use this power in emergencies, for example if several of the Council's independent Members are unable to participate in a matter through illness or conflict of interest.*

Action Point: *- That the Governance Committee be requested to recommend to full Council that Procedure Rule 18.13 be disapplied in relation to the Standards Committee.*

Supporting standards committees

The role of the monitoring officer

Your monitoring officer plays an important role in helping the standards committee to carry out its functions. The monitoring officer should have the necessary knowledge, skills and experience to do this. They are the link between your members and the standards committee. Your monitoring officer also plays an important role in the relationship between parish and town

councillors and the standards committee. Under the Local Government Act 2000, monitoring officers are responsible for investigating allegations and they receive directions to carry out actions other than an investigation. It is for this reason that they are well placed to monitor the effectiveness of the Code of Conduct. Please see our guidance **Local assessment of complaints** for further information on other action. Monitoring officers must also maintain the register of members' interests. Monitoring officers may appoint deputies to help them fulfill their roles. They may, for example, appoint a deputy to conduct an investigation on their behalf, or to write a report to the standards committee. Your monitoring officer may also want to arrange training on standards matters for standards committees or for other members. Under the Code, members must have regard to the advice of the monitoring officer when it is given as part of the monitoring officer's statutory duties.

***Comment:** - Alex Bailey, the Director of Strategy & Governance is the Council's Monitoring Officer. Abraham Ghebre-Ghiorghis, the Head of Law is the Deputy Monitoring Officer. Both are experienced local government lawyers. They are responsible for maintaining the register of Members' interests. Training for Standards Committee members was provided through the screening of the Standards Board DVD entitled "The Code Uncovered" on 6 November 2007, and through an exercise on Local Assessments following the 18 March 2008 meeting.*

Operation of standards committees

Validity of meetings

The requirements in relation to membership and composition of standards committees are set out in the section on **Size and composition** on **page (9)** of this guidance. All members of sub –committees must be drawn from and appointed by the standards committee. A standards committee must appoint a sub-committee to:

- assess new complaints
- review decisions to take no action over a complaint

A standards committee can appoint a sub-committee to:

- consider a monitoring officer's final investigation report
- consider determination hearings

For the meeting of the sub-committee to be valid at least three members of the standards committee must be present throughout. These three members must include at least one member of the authority and one independent member, who must be the chair. Meetings of the standards committee also have to meet the requirements set out above to be valid. The requirement to have an independent chair does not apply to other sub-committees of the standards committee. A member of an assessment sub-committee cannot be

present at the review sub-committee meeting when it considers a complaint that the assessment sub-committee decided no action should be taken on. Please see our guidance **Local assessment of complaints** for further information. If the standards committee appoints a sub-committee to consider matters relating to parish and town councils, and the members of those councils, the sub-committee must have at least three members who are present throughout the meeting, including a parish or town council representative and an independent member. At least one parish and town council representative must be present when matters relating to parish and town councils are being discussed by any meeting of the standards committee or one of its sub-committees.

Comment: - *The Council's constitution is compatible with the above. .*

Agendas and reports for standards committee meetings

Standards committee agendas should be open for inspection five days before the meeting and a copy should be sent to parish and town councils that the authority is responsible for. Meetings of the assessment and review sub-committees are closed and therefore agendas for these meetings do not come under this rule. Many councils place agendas on their website. Copies of meeting reports should also be available for inspection. If the monitoring officer is a **proper officer** they can decide to exclude the whole report or any part of it, if they believe the meeting where the report(s) will be discussed is unlikely to be open to the public. These might include confidential or exempt items, or parts of reports that if disclosed might be in breach of the Data Protection Act. If the chair believes, by reason of special circumstances specified in the minutes, that an item should be considered as a matter of urgency, this can be considered, despite it not having appeared on the agenda for the meeting. Meeting minutes should be available for six years after the meeting, unless they relate to a part of the meeting that the public was excluded from, in which case they should not be made available. Please see our guidance **Local assessment of complaints** for further information on access to meetings of the assessment and review sub-committees.

Comment: - *Council officers are aware of and ensure compliance with these requirements. Agendas, reports and minutes of meetings of the Standards Committee can be accessed through the Council's website except to the extent that they contain confidential or exempt information.*

