

STANDARDS COMMITTEE - 18 OCTOBER 2007**LOCAL FILTERING****3. BACKGROUND**

3.5 The purpose of this report is to request the Standards Committee to consider how the local filtering might be carried out, and whether the constitution of the Standards Committee might need to be altered as a result. It will be for each principal authority to decide what system is most appropriate for that authority.

3.6 Options are set out below.

3.7 Option 1 – Whole Committee Filtering

Filtering is carried out by the full Standards Committee. The same Committee would also hear any final determination of the complaint. Officers advise against this option as the members will only have heard one side of the complaint, possibly a persuasive, over-exaggerated complaint, which will remain unchallenged for months and may affect their judgement, or there may be a public perception (or more likely a perception by the member who is the subject of the complaint) that their judgment has been affected.

3.8 Option 2 – Sub-Committees

Two sub-committees are formed. One sub-committee would filter complaints and the other would hear the final determination; officers would ensure members would be given equal opportunities to both filter and deal with final determinations. It is suggested that the membership for the sub-committees would not be fixed and would remain flexible.

Advantages: filtering remains “in-house” and impartiality is retained. It will also be more convenient from an administrative point of view.

Practical considerations: the current Standards Committee may not contain a large enough pool of trained members to enable this to occur, and consideration should be given to enlarging the committee. In particular, the rules relating to the proportion of independent members and the requirement for a parish member to be present need to be considered. A statutory requirement for a parish member to be present whenever a parish matter is being considered will be applied to sub-committees dealing with parish matters; if so, the number of parish members would have to be increased to two, with a nominated substitute. Members should consider what the number of members for those sub-committees should be, and if 3 (as for Licensing Sub-Committee meetings, by way of example) what the appropriate quorum should be. Depending on the quorum, it might be prudent to consider whether there should be reserve members.

3.9 Members should also consider the role of the Chairman and whether the Chairman should participate in filtering, or whether the Chairman should always chair all final determinations. Members need to be aware that the

LGIPH Act is likely to make it a requirement that the Chairman of the Standards Committee and its sub-committees is an independent member (the requirement relating to sub-committees was omitted in the original draft but is expected to be included in the committee stages of the Bill), so if members consider that the Chairman should participate in filtering, another independent member will have to be designated as the Chairman for the final determinations.

Joint Working

- 3.10 The Act will enable principal authorities to work jointly, for either filtering or final determinations. This could operate in a number of ways.

Option 3 – Filtering by neighbouring authority

- 3.11 Filtering could be carried out by a neighbouring authority.

Advantages: this would demonstrate complete impartiality. The final determination would be dealt with by this authority's full Standards Committee, enabling all members to participate in the final hearing. It also demonstrates the Council's ability to work jointly and in partnership with other authorities.

Disadvantages: members who are the subject of the complaint may not be comfortable with the prospect of complaints being aired before another authority's members.

- 3.12 Option 4 – Joint filtering

A joint committee comprising a small number of members from two or more authorities could deal with filtering of complaints against members of both authorities and parish councils within their districts.

Advantages: a degree of impartiality would be demonstrated. Again, the ability of this Council to work in partnership with other authorities would be demonstrated. Officer resources could be shared.

Disadvantages: those members who dealt with the filtering should not participate in the final determination.

- 3.13 Reviews – Whole Committee Filtering

It would not be good practice nor in the spirit of the rules of natural justice for a decision not to investigate a complaint to be reviewed by the same group of people which took the decision. For the review to be fair and indeed to be seen to be fair, it should be conducted by a different body of individuals. Therefore, whole-committee filtering would present a practical difficulty as all members of the Standards Committee would have taken the initial decision and would therefore be disqualified from conducting the review.

- 3.14 Reviews - Sub-Committee Filtering

The sub-committee which carried out the filtering should not undertake the review. The sub-committee earmarked to carry out the final determination might undertake the review but the risks of prejudice highlighted in paragraph 3.7 above exist.

3.15 Reviews – Separate Review Sub-Committee

Instead of dividing the Committee into 2 sub-committees as suggested in paragraph 3.8 above, the Committee could instead be divided into 3 sub-committees, enabling one pool of members to be entirely independent and able to carry out an independent review. This would require an increase in the membership of the Standards Committee.

3.16 Reviews – Joint Working

An arrangement with a neighbouring authority might be reached whereby reviews are conducted by the neighbouring authority's Standards Committee.

3.17 Changes to the Constitution

The Council is to consider a number of changes to the Constitution in the early part of 2008, to include a number of other issues arising from the LGIPH Act. It is intended that members will be consulted on all these issues and will be encouraged to feed into the review process. The Standards Committee is being requested to formulate proposals upon which members will be consulted.

RECOMMENDATIONS OF THE STANDARDS COMMITTEE ON LOCAL FILTERING

A report detailing the various options for local filtering of complaints of breaches by councillors of the Code of Conduct under the Local Government and Public Involvement in Health Bill, and which also looked at corresponding revisions to the Council's Constitution, was considered.

Members preferred Option 2 "Sub-Committees", which it was noted would involve the formation of sub-committees of the Standards Committee.

- An initial sub-committee (consisting of one independent member, one elected member and one parish member) would be responsible for filtering complaints;
- A second sub-committee (consisting of two independent members, two elected members and one parish member) would hear any final determinations.
- The membership of the sub-committees would not be fixed and would remain flexible.
- Any reviews of decisions by the filtering sub-committee not to investigate a complaint would be dealt with by a separate review sub-committee, consisting of at least three members who had not sat on the initial filtering sub-committee.
- In the event of the review sub-committee deciding that there should be a final determination, any such determinations would be heard by the whole Standards Committee.
- The quorum of all sub-committees would be three.

Parish Members

In view of the statutory requirement for a parish member to be present whenever a parish matter was being considered, and in order to allow for a reserve parish member if required, it was agreed that:

- the Standards Committee needed to be enlarged to include a third parish member, with all parish members to originate from different parish councils. A third parish member would also enable the determinations sub-committee to be divided into two should a large number of complaints against councillors be received.
- Although all three parish members would have full voting rights when sitting on sub-committees, only one parish member would have voting rights on the Standards Committee.

Members further agreed that the proposed structure should be reviewed in twelve months time to see how this had worked in practice.

RECOMMENDED:

- (a) that, in order to carry out local filtering of complaints of breaches by councillors of the Code of Conduct under the Local Government and Public Involvement in Health Bill, sub-committees of the Standards Committee be formed (as detailed in the preamble above);
- (b) that any reviews of a decision of the filtering sub-committee not to investigate a complaint be carried out by a review sub-committee consisting of at least three members who had not participated in the original filtering sub-committee;
- (c) that in the event of the review sub-committee deciding that there should be a final determination on the matter which had been the subject of a review, any such determinations be heard by the entire of the Standards Committee;
- (d) that the membership of the Standards Committee be enlarged to include a third parish member, with the three parish members to originate from separate parish councils, and of which only one parish member would have voting rights on the Standards Committee; and
- (e) that the proposed structure be reviewed in twelve months time.