

Constitution of Standards Committee

Report of the Clerk

For further information about this report please contact Sue Kembrey, Clerk and Monitoring Officer, on 01952 383200 or Matt Cumberbatch, Group Solicitor, on 01952 383233.

1 Purpose of Report

To inform Members of the forthcoming changes to the ethical framework that applies to elected Members and seek permission to undertake work to ensure compliance with the new procedures contained in the Local Government and Public Involvement in Health Act 2007.

2 Recommendations

The Fire Authority is asked to:

- a) Approve an increase in the number of Independent Members of the Fire Authority's Standards Committee from two to four and permit the commencement of an exercise to recruit the additional Independent Members required;
- b) Delegate authority to the Fire Authority's Clerk and Monitoring Officer to amend the membership of the Standards Committee to allow the Fire Authority to meet the requirements set out in the Local Government and Public Involvement in Health Act 2007 and also in accordance with any subsequent associated regulations; and
- c) Delegate authority to the Fire Authority's Clerk and Monitoring Officer to amend the Terms of Reference of the Standards Committee to incorporate the additional responsibility imposed upon the Committee by the relevant provisions of the Local Government and Public Involvement in Health Act 2007.



3 Background

The Local Government and Public Involvement in Health Act 2007 places a legal obligation upon the Fire Authority to make provision for the processing of complaints against Members relating to the Members' Code of Conduct. In order to incorporate the changes set out both by this legislation and any subsequent regulations that will be produced as a result the Fire Authority needs to consider allowing various changes to be made to ensure that the Standards Committee can perform these additional responsibilities.

4 Forthcoming Changes in the Legislation

The Local Government and Public Involvement in Health Act was enacted on 30 October 2007. The new legislation makes a number of changes to the ethical framework in respect of allegations made against Members in relation to the Code of Conduct. It is expected that these provisions will be in force by spring 2008.

Changes will include an amendment to the new Member Code of Conduct, recently adopted by the Fire Authority, and a legal requirement that the Standards Committee is chaired by an Independent Member.

The most significant change so far is, however, the new procedure for processing complaints about alleged breaches of the Members' Code of Conduct. Instead of such complaints being made to the Standards Board for England, they will be made in the first instance to the Fire Authority Standards Committee. It is expected that a sub-committee chaired by a non-elected, Independent Member will consider the complaints initially and make an assessment as to what action could be taken. This could ultimately lead to local investigation and determination of the complaint.

The new legislation also makes provision for a review of an initial decision. This would be in a situation where a written allegation has been determined in the first instance by a sub-committee of the Standards Committee, which has decided that no action should be taken. In such a situation the person making the allegation can request that the allegation is reconsidered. In order for this task to be undertaken a further sub-committee made up of different Members of the Fire Authority Standards Committee may be required.

Accordingly, there is the potential for three different sub-committees to have to consider one individual allegation (by way of initial assessment, review, and ultimately a detailed determination after an investigation has taken place). In order to ensure procedural fairness it would be prudent if each sub-committee is made up of different Members. This would ensure that there could be no allegation that any Member has pre-determined the matter by way of a previous decision they had made. Consequently, in order for the Fire Authority to be able to perform these functions, there would be a requirement that there are at least three non-elected Independent Members and six elected Members on the Standards Committee.



5 The Way Forward

At present there are only two Independent Members of the Standards Committee and, therefore, permission is sought from the Fire Authority to increase the Independent membership of the Committee from two to four Members. This would allow for a different Independent Member to be available for each potential hearing and for an additional Independent Member to be available, if required (for example, in the event that one of the Independent Members has a prejudicial interest in the matter). If the Fire Authority is in agreement with this proposal, permission is also sought to commence the recruitment exercise immediately.

At the time of preparing this report further regulations and guidance with regard to the new procedures are awaited. However, with a likely commencement date some time in spring 2008, this will leave very little time to incorporate all of the required changes into the Fire Authority procedures for dealing with ethical standards matters. Accordingly, permission is sought from the Fire Authority to make appropriate amendments to the constitution, including the terms of reference, of the Standards Committee in order to meet the legal requirements within an appropriate timescale, if required.

6 Financial Implications

Currently a co-optee's allowance of £263 per annum is paid to the two non-elected, Independent Members of the Fire Authority's Standards Committee. If the Independent Membership were to be increased, this would increase the total amount of co-optee's allowance payable accordingly. This cost could be built into the 2008/09 and future years' budgets

It would also be necessary to advertise locally, which would cost several hundred pounds. This cost could be met from the 2007/08 budget.

The increased responsibility brought about by the legislation in terms of the sub-committees to be set up, instruction on new procedures, and the requirement to provide regular returns to the Standards Board for England will also have resource implications.

7 Legal Comment

The Local Government and Public Involvement in Health Act 2007 is not yet fully in force. However, when the legislation is implemented, there will be a legal requirement upon the Fire Authority to meet its obligations in respect of ethical matters. The Act introduces many amendments to the Local Government Act 2000 in respect of local powers and responsibilities relating to the Code of Conduct for Members. Section 185 of the Act introduces responsibilities for the local determination of complaints relating to the Member Code of Conduct and section 188 includes amendments to this same legislation in respect of sub-committees of Standards Committees, which will deal with the complaints.



Whilst the Fire Authority has had only a minimal amount of complaints in the past, it still has to meet the legal requirement by providing the structures for dealing with such complaints in the future in accordance with the new legislation. This will require changes to the structure and responsibilities of the Fire Authority's Standards Committee.

8 Equality Impact Assessment

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

9 Appendices

There are no appendices attached to this report.

10 Background Papers

Local Government and Public Involvement in Health Act 2007

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	*
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*

