

May 2002

Guidance on standards committees

Local authorities

This guide

This guide gives our view on the role and make-up of standards committees. We have written this guidance after considering the terms of reference that have been sent to us by local authorities. This is the first of two guides on standards committees. The second guide will deal with local investigations and sanctions which reflect regulations made under section 66 of the Local Government Act 2000.

This guide is for Monitoring Officers and standards-committee members in district, unitary, metropolitan, county and London borough councils as well as those of the Greater London Authority, City of London and the Isles of Scilly.

Introduction

Under section 53 of the Local Government Act 2000, your council must set up a committee called a standards committee (if it has not already done so). The Relevant Authorities (Standards Committee) Regulations 2001 set out the rules governing the size and membership of the standards committee and how it should run its business.

Under the Local Government Act, standards committees have five 'statutory functions'. They must:

- give the council advice on adopting a local code of conduct;
- monitor the effectiveness of the code;
- train members on the code, or arrange for such training;
- promote and maintain high standards of conduct for members; and
- help members to follow the code of conduct.

Standards committees can also grant 'dispensations' so members can be included in meetings they would not normally be able to attend due to a prejudicial interest.¹ The standards committee can only grant dispensations in the circumstances set out in the regulations.²

You can also give your standards committee other functions. We believe that standards committees should be proactive by introducing change rather than reacting to events. Ultimately, standards committees should aim to create and maintain ethical organisations.

Creating and maintaining an ethical organisation is not just about adopting a code of conduct for members. It is also about relationships both internally between members and council staff, and externally with members of the public. It is about how the council relates to the community and improves the service it provides. It involves the input and dedication of both members and council staff.



¹ Section 81(4) of the Local Government Act 2000.

² The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 (SI 2002/339).

Introduction continued

If, before 28 August 2001, you already had a standards committee, and:

- its role already included promoting and maintaining high standards of conduct; and
- it included an independent member (that is, someone who was not a member or officer of your council or any other local authority);

that committee can be used as the basis of the standards committee you must set up under Part III of the Act.

At least 25% of the members of your standards committee must be independent of the council.³

If your council is responsible for any parish and town councils in your area, you must have at least one parish- or town-council representative on your committee.⁴

Size and make-up of standards committees

You must have at least three people on your standards committee.⁵ At least two of the committee members must be councillors and at least one must be independent of local government.⁶ This person is referred to as the ‘independent representative’.

If you have more than three people on your standards committee, at least 25% of the members must be independent.⁷ For example, if your standards committee has five members, at least two of the members must be independent representatives.

If your council is responsible for any parish or town councils, at least one representative from those parish or town councils must be on your standards committee.⁸ The parish- or town-council representative must not also be a member of your council.⁹ There must be at least four people on your committee. A parish- or town-council representative must be present whenever matters that affect parish and town councils are being discussed.¹⁰

If you are appointing a panel of parish- or town-council representatives (for example, if several representatives take it in turns to sit on the standards committee), you will need to make sure that there is still the appropriate balance within the committee.

Your council may also appoint a parish sub-committee to deal with town- and parish-council matters.¹¹ Any sub-committee must include at least one member of any parish or town council in the area and at least one independent representative.¹²

Independent representatives

The reason for having an independent representative is to help increase public confidence and provide a clear signal that the committee is fair. The independent representative also brings a wider perspective from outside experiences.

There is no limit to the number of independent representatives you can have on your standards committee.

The independent member must not be a member or employee of your council or any local authority.¹³ Your council decides how long an independent representative should sit on the committee. This should be long enough for them to gain an understanding of the committee, your council and its workings, but not so long that they lose their independence.

We recommend that there should be at least two independent representatives on your standards committee, as a single independent representative could become isolated and ineffective. Having two independent representatives would also avoid meetings automatically becoming invalid (inquate) if the independent representative cannot attend.

³ Regulation 3(1)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

⁴ Section 55(6)(a-b) of the Local Government Act 2000 and Regulation 3(2)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

⁵ Section 53(4) of the Local Government Act 2000.

⁶ Section 53(4)(b) of the Local Government Act 2000.

⁷ Regulation 3(1)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

⁸ Section 55(6)(a) of the Local Government Act 2000 and Regulation 3(2)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

⁹ Regulation 3(2)(b) of the Relevant Authorities (Standards Committee) Regulations 2001.

¹⁰ Section 55(6)(b) of the Local Government Act 2000 and Regulation 3(2)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

¹¹ Section 55(3) of the Local Government Act 2000.

¹² Section 55(7) of the Local Government Act 2000.

¹³ Section 53(4)(b) of the Local Government Act 2000.

Choosing an independent representative

You must choose the independent representative in a fair and open way. A person can be an independent representative only if:

- he or she has not been a member or employee of your council within the five years before the date of appointment;
- he or she is not a relative or close friend of a member or employee of your council;
- he or she filled in an application for the position;
- he or she has been approved by the majority of members; and
- the position has been advertised in at least one newspaper distributed in your council's area.¹⁴

(Note: the rules above do not apply to standards committees which were set up before 28 August 2001 and can be treated as the council's standards committee for the purpose of Part III of the Local Government Act 2000. However, the rules will apply to such committees from 28 August 2003.)

If you are finding it difficult to appoint an independent representative, you should review the criteria of the advertisement and make sure they are realistic. For example, you could check that you are not asking the member to put in an unrealistic amount of time.

The qualities you look for in an independent representative will depend on the area your council serves, but you may want to see that the representative:

- is familiar with ethical dilemmas;
- has experience with committee work;
- has questioning skills;
- is assertive; and
- is independent of any political party and local government.

You could try advertising for an independent representative in a number of places (for example, places of adult learning, libraries or places of worship). You could approach someone your council considers appropriate for the position and tell him or her about the advertisement. 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.

At present, independent representatives are only entitled to allowances to cover travel and subsistence expenses and financial loss. However, the Government considered advice on a new allowances system last year. We are pressing them to allow independent representatives to claim a 'special responsibility' allowance.

Parish- and town-council representatives

The role of a parish- or town-council representative is to make sure that the parish and town councils are represented throughout discussions. A parish- or town-council representative must sit on the standards committee at all times when parish matters are being discussed.¹⁵ This rule will apply even if your council has appointed a parish council sub-committee.

Your council must consult parish and town councils within its area to help decide if there should be a parish sub-committee,¹⁶ the number of any parish- and town-council representatives¹⁷ needed and how long they should serve on the committee.

Your council decides how to recruit parish- or town-council representatives. However, the representative should have the trust of people in your area, so you should involve all parish and town councils in the selection procedure. If you are finding it difficult to find a parish- or town-council representative, your local county association may be able to help. For example, the county association may be able to give you a list of possible candidates. You could then send the list to all parish and town councils within your area for voting. This process should gain the approval 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.

We encourage standards committees to have more than one parish- or town-council representative as this shows that parish issues are going to be dealt with fairly. It would also avoid meetings becoming invalid (inquate) if the parish- or town-council representative is not present when issues affecting parish or town councils are discussed.

¹⁴ Regulation 4 of the Relevant Authorities (Standards Committee) Regulations 2001.

¹⁵ Section 55(6)(b) Local Government Act 2000 and Regulation 3(2)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

¹⁶ Section 55(4) of the Local Government Act 2000.

¹⁷ Section 55(5) of the Local Government Act 2000.

Make-up of the standards committee

Under section 53(10) of the Local Government Act 2000, standards committees do not have to reflect the political balance of the council. This is because the standards committee is above party politics and its representatives need to gain the respect of the whole council, regardless of their political party. Indeed, it may be appropriate to have an equal number of representatives from all parties represented on the council.

We believe it is very important that your standards committee includes representatives who have the support of all political parties.

Such committees should not be 'whipped' (told how to vote on matters) but should be regarded as quasi-judicial (able to consider matters impartially and without regard to party loyalty).

Experience has shown us that members should consider and review the make-up of their standards committee to make sure that there is a fair and appropriate balance between independent representatives and those from the different tiers of local government.

Executive members on the committee

If your council has executive arrangements:

- there can be only one executive member on your standards committee;
- that member cannot be the mayor or the leader of the council; and
- that member cannot chair the committee.

However, the committee does not need to include a member of the executive.

You should consider whether it is appropriate to appoint an executive member in order to show that the committee is supported and respected by all parts of the council, or whether not having an executive member reflects a degree of independence from the political leadership of the council.

Validity of meetings

A meeting of a standards committee will not be valid (quorate) unless at least three members of the committee, including at least one independent representative, are present for the whole meeting.¹⁸ If the independent representative cannot take part in a meeting because of your council's code of conduct (for example, where they have a prejudicial interest in the issue being discussed) the meeting will still be valid if at least three members of the committee are present for the whole meeting.¹⁹

The parish- and town-council representative must be present when matters relating to parish and town councils are being discussed.²⁰

Functions

Under the Local Government Act, standards committees have three specific functions and two general functions.

The specific functions are to:

- give the council advice on adopting a local code of conduct;
- monitor the effectiveness of the code;
- train members on the code, or arrange for such training.²¹

The general functions are to:

- promote and maintain high standards of conduct for members; and
- help members to follow the code of conduct.²²

These functions must be adopted by all standards committees and set out in their 'terms of reference' as a minimum. You can arrange for the standards committee to have other functions that your council considers appropriate.²³ Once you have set up a standards committee, you must send a copy of its terms of reference to us. We are happy for you to e-mail this to us at codeofconduct@standardsboard.co.uk if you prefer.

¹⁸ Regulation 6(1) of the Relevant Authorities (Standards Committee) Regulations 2001.

¹⁹ Regulation (6)(2) of the Relevant Authorities (Standards Committee) Regulations 2001.

²⁰ Section 55(6)(b) the Local Government Act 2000 and Regulation 3(2)(a) of the Relevant Authorities (Standards Committee) Regulations 2001.

²¹ Section 54(2) of the Local Government Act 2000.

²² Section 54(1) of the Local Government Act 2000.

²³ Section 54(3) of the Local Government Act 2000.

1. Giving members advice on adopting a code of conduct

Adopting the code of conduct

Your council must have adopted a local code of conduct by 5 May 2002

(if it hasn't already done so). In order to adopt a code of conduct your standards committee must become familiar with the model code of conduct. Your local code of conduct must include all of the provisions of the model code, and these cannot be changed.

All of the provisions in the model code of conduct will automatically apply, even if you do not adopt them all in your code.

Once your council has adopted a code of conduct, you must send a copy of it to us.²⁴ We can receive and investigate complaints against your members from the time your council adopts a code of conduct.

If your council adopts the model code, we are happy to receive a council resolution stating that you have adopted the model code of conduct, unchanged, and the date your council adopted it.

If you add provisions to the model code, you should highlight the changes before sending them to us. We are happy for you to e-mail this to us at codeofconduct@standardsboard.co.uk if you prefer.

Extra provisions

Your council may adopt extra provisions in their code to suit local circumstances as long as those provisions are consistent with the model code of conduct and do not break any relevant law or regulation.

However, we recommend that you do not add extra provisions to the code at this stage. We believe it is wide-ranging enough to deal with all relevant matters of conduct and extra provisions could cause confusion to local people and those who serve on more than one council.

We also believe that all members should be judged by the same standards. If you add to the model code of conduct, you should realise that members will be assessed against these extra provisions at a national level. If you do want to make extra provisions to deal with specific local circumstances, get legal advice to make sure those provisions can be enforced and do not break any other relevant law or regulation, such as the Human Rights Act.

If your council thinks that extra provisions are necessary (for example, in a more detailed planning code), this should be separate from, and run alongside, the model code of conduct. The extra provisions could be given as guidance rather than as part of your code.

We will review the provisions of the model code and will send any proposed amendments to the Government. The purpose of the review is to make sure that existing, new and amended provisions are realistic, and can be enforced.

If your council is responsible for any parish or town council within your area, you will need to tell those councils about the code of conduct you have adopted. There is a separate model code, approved by Parliament, for town and parish councils. Again, we recommend that you do not add extra provisions for the reasons already explained.

Members' agreement to adopt a code of conduct

Once your council has adopted a code of conduct, each member will have two months in which to sign an undertaking to confirm that they will follow the code of conduct.²⁵ We recommend that all members do this at the time the code is adopted. This is because if members fail to sign the code within two months of the code being adopted, they will **stop being members**²⁶ and you will need to declare a vacancy.

Your standards committee, along with the Monitoring Officer, will need to chase up the members who have not signed the undertaking.

²⁴ Section 53(9) of the Local Government Act 2000.

²⁵ Section 52(1)(a) of the Local Government Act 2000.

²⁶ Section 52(b) of the Local Government Act 2000.

1. Giving members advice on adopting a code of conduct contd

Publicising the adoption of the code

Once your council has adopted a code of conduct you must publish a notice in the local newspaper saying that a code has been adopted and it is available to be seen by members of the public at all reasonable hours.²⁷

Your standards committee may want to help the parish councils in your area to advertise their codes. Advertising can be expensive and one advertisement can publicise codes for several authorities. In this case the advertisement could simply list the authorities in the area that have adopted the code of conduct and where it is available for the public to view. The advertisement should be placed in a publication covering all of that area.

2. Training members on the code

Your standards committee is responsible for training members on matters relating to the code of conduct, or arranging for appropriate training to be provided.²⁸

Training is an excellent way for your council to set out the standards of conduct it expects from its members.

Members should know about the workings and implications of the code of conduct before it is adopted, so they know what they are agreeing to sign up to.

We recommend that, where possible, your standards committee is trained before other members so they can answer any questions which may arise before (or shortly after) it is adopted.

Your standards committee may also like to issue guidance notes or memos to run alongside the code. These could include guidance on local issues and an explanation of any extra provisions added to the code.

You 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.

Your council could consider making ethics training part of an induction programme for members. Council employees should also be included in any training as ethics is about more than just the code of conduct for members.

Ethics training can help to create an ethical organisation.

If your council is responsible for any parish or town councils, it must also make sure that training is available to those members. You may want to consult county associations to see if they are providing any training.

We strongly encourage different tiers of local government to work together on ethical matters, particularly with training as all members should know their rights and responsibilities, regardless of the type of authority they sit on.

3. Granting dispensations

When over 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 will be upset, members can apply to your standards committee in writing for a 'dispensation' to allow them to attend. In this instance, the Dispensation Regulations (SI 2002 No 339) will apply.

For parish and town councils, the district or unitary council's standards committee will be responsible for granting dispensations.

The dispensation must be agreed by the standards committee, in writing, before the meeting is held.

4. Helping members to follow the code of conduct

Your council can provide training and guidance on how to follow the code.

You may like to set up meetings, seminars and advice sessions where members can get advice on how to introduce the code and how it will affect their role in the future.

We believe that prevention is better than cure, and standards committees should make sure that members know about, and are able to keep to, all the provisions of the code.

²⁷ Section 51(6)(b) of the Local Government Act 2000.

²⁸ Section 54(2)(c) of the Local Government Act 2000.

5. Promoting and maintaining high standards of conduct

Ethics are about more than members following the code of conduct. The aim of setting up a standards committee is to create a sense of 'ethical well-being' in the council, to increase confidence in local democracy, and to improve the public image of local government.

The recent local government white paper has called on councils to review their constitutions at least once every five years. You may want to consider making the standards committee responsible for doing this and for making sure the constitution is designed to reduce the opportunity for misconduct. This does not mean, for example, preventing individual executive members from making decisions, but making sure that the constitution allows for these decisions to be taken only after a proper discussion. It also means making sure that processes are properly accountable to both members and the public, and that relations with outside organisations are properly managed.

The Local Government Act 2000 allows your council to give the standards committee extra appropriate functions. After reviewing terms of reference we have received from councils, it is clear that many standards committees are taking on extra functions. These include assessing the reports from the Ombudsman and the District Audit, setting up and commenting on recommendations on councillors' allowances, and dealing with protocol for members and council employees.

You may also want your standards committee to identify potential ethical problems and risk factors.

We believe that giving standards committees wider-reaching responsibilities is a positive step and will help promote confidence in democracy.

6. Monitoring the effectiveness of the code

Your standards committee needs to monitor how effectively members are keeping to the code of conduct and the type of complaints received. This will help you identify where you have problems and what should be included in future guidance and training.

You should remember that you can amend and re-adopt your local code of conduct at any time as long as it still contains all of the provisions of the model code of conduct.

It is important that you monitor any extra provisions that your council puts into the code to see if they should be kept or if further provisions would be useful in the future.

Role of the Monitoring Officer

Your Monitoring Officer plays an important role in helping the standards committee to carry out their functions. They should have the experience, skills and contacts necessary to do this. The Monitoring Officer is the link between your members and the standards committee. He or she also plays an important role in the relationship between parish and town councillors and their standards committee.

Monitoring Officers are well-equipped to monitor the effectiveness of the code of conduct and may want to help train standards committee members on ethical behaviour.

Monitoring Officers are also the link between your council and us.

Further guidance

We will issue further guidance on the Section 66 regulations that will govern the way in which complaints made to the Standards Board can be referred back to the Monitoring Officer²⁹ once the regulations have been issued by the Department of Transport, Local Government and the Regions.

Credits

We prepared this guide in consultation with the Association of Council Secretaries and Solicitors, the Society of Local Authority Chief Executives, the Local Government Association, the National Association of Local Councils, the Society of Local Council Clerks, the Association of Larger Local Councils, the Association of Police Authorities, and the Department of Transport, Local Government and the Regions.



the
Standards Board
for England

The Standards Board for England
PO Box 36656
London SE1 0WN

Telephone 0845 078 8181

enquiries@standardsboard.co.uk
www.standardsboard.co.uk



Confidence in local democracy