

REPORT TO COUNCIL

REPORT OF: Legal Services Manager (Monitoring Officer)

REPORT NO.: LEG 015

DATE: 3RD March 2008

TITLE:	CONSTITUTION OF THE STANDARDS COMMITTEE	
FORWARD PLAN ITEM:	N/A	
DATE WHEN FIRST APPEARED IN FORWARD PLAN:	N/A	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:	COUNCILLOR PAUL CARPENTER – HOUSING AND CORPORATE GOVERNANCE	
CORPORATE PRIORITY:	CORPORATE GOVERNANCE	
CRIME AND DISORDER IMPLICATIONS:	N/A	
FREEDOM OF INFORMATION ACT IMPLICATIONS:	This report is publicly available on the Councils Website www.southkesteven.gov.uk via the local democracy link	
INITIAL EQUALITY IMPACT ASSESSMENT	Carried out and appended to report? Not Applicable	Full impact assessment required? No

BACKGROUND PAPERS:	Department of Communities and Local Government consultation on Orders and Regulation Relating to the Conduct of Local Authority Members in England. http://www.communities.gov.uk/documents/localgovernme nt/doc/20 Minutes of the Standards Committee meeting of the 1 st February 2008
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1. INTRODUCTION

- 1.1 Attached as an appendix to this report is the Monitoring Officer's report to the Standards Committee on the 1st February 2008. The report details change in the constitution of the Standards Committee and terms of reference sufficient to comply with the requirements of part 10 of the Local government and Public Involvement in Health Act 2007 ("the Act") and the orders and regulations made under that Act.
- 1.2 The government consultation for the orders and regulations ended on the 15th February 2008 and at the time of publication of this report, no orders or regulations had been made.
- 1.3 In any event, in order to comply with the requirements of the Act, it is recognised, the Standards Committee will require an increase in the number of its members to form 2 sub-committees as detailed in the appendix.
- 1.4 The Standards Committee considered the report attached as the appendix to this report and agreed the recommendation subject to amendment as shown in red in the appendix.

2. RECOMMENDATIONS

It is recommended the Council approve the changes to the Constitution, to be effected as soon as the appropriate part of the Local Government and Public Involvement in Health Act 2007 has been commenced, as follows:

that the Constitution be amended to provide for a minimum of 8 members of the Standards Committee in total with the addition of one District Councillor and one Parish Councillor.

that Council appoints one additional member of the District Council as a member of the Standards Committee. There is no

requirement on making such an appointment to apply the rules relating to political balance to such an appointment.

That Council approves the appointment of one additional parish councillor to be selected as required by rota in accordance with the current selection process for parish councillors to sit on the Standards Committee to ensure that at any time 2 members of parish councils may sit on the Standards Committee.

that amendments to the Constitution be approved as detailed in the appendix to effect all the above recommendations.

3. DETAILS OF REPORT

As detailed in the appendix

4. COMMENTS OF SECTION 151 OFFICER

As contained in the previous report number LEG12.

5. COMMENTS OF MONITORING OFFICER

The Standards Committee are authorised by article 10 of the Constitution to make recommendations to Council in respect of changes to the Constitution in relation to matter concerning ethics, conduct and probity.

The appendix attached will be considered by the Constitution Committee at its meeting on the 25th February 2008 for information only.

7. COMMENTS OF OTHER RELEVANT SERVICE MANAGER

None applicable

8. CONCLUSION/SUMMARY

The Standards Committee, as currently constituted, does not include enough members to establish, at least, 2 sub-committees required to carry out the functions required by the Act. The amendments to the Constitution requested require the Council to agree the appointment of one further District Councillor (4 in total) and approval for the appointment of one further parish councillor (2 in total) to establish the sub-committees.

All the amendments proposed relate to the appointment of those additional members and the changes required to terms of reference of the Standards Committee and its role and functions as required by the Act.

9. CONTACT OFFICER

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**APPENDIX TO REPORT TO COUNCIL - CONSTITUTION OF THE STANDARDS
COMMITTEE - MEETING 3RD MARCH 2008**

REPORT TO STANDARDS COMMITTEE

REPORT OF: LEGAL SERVICES MANAGER (MONITORING OFFICER)

REPORT NO: LEG 012

DATE: 1ST February 2008

CONSTITUTION OF THE STANDARDS COMMITTEE	
TITLE:	
FORWARD PLAN ITEM:	N/A
DATE WHEN FIRST APPEARED IN FORWARD PLAN:	N/A
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A

COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:	CORPORATE GOVERNANCE – COUNCILOR PAUL CARPENTER	
CORPORATE PRIORITY:	USE OF RESOURCES	
CRIME AND DISORDER IMPLICATIONS:	NONE APPLICABLE	
FREEDOM OF INFORMATION ACT IMPLICATIONS:	This report is publicly available via the Local Democracy Link on the Council's website: www.southkesteven.gov.uk	
INITIAL EQUALITY IMPACT ASSESSMENT	Carried out and appended to report? Not Applicable	Full impact assessment required? No

BACKGROUND PAPERS:	Department of Communities and Local Government consultation on Orders and Regulations Relating to the Conduct of Local authority members in England
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1. INTRODUCTION

The Local Government and Public Involvement in Health Act 2007 (the Act) was enacted on the 30th October 2007. The Act includes provision at part 10 for a revised ethical conduct regime for local government based on the principle of proportionate decision making on conduct issues. It is proposed this provision comes into effect in Spring 2008 and the Department of Communities and Local Government are currently consulting on orders and regulations relating to this provision. This consultation was received on the 7th January 2008 and will be concluded on the 15th February 2008.

The new regime proposes Standards Committees will have responsibility for 3 functions:

- i) Making initial assessments of misconduct allegations,
- ii) considering requests to review decisions to take no action
- iii) To make determinations of allegations.

To carry out these 3 functions it is likely there will be a need for sub-committees of the Standards Committee. It is recognised functions i) and ii) above cannot be conducted by the same sub-committee. At least two separate sub-committees will be required to carry out the functions i) and ii) mentioned above.

The constitution of the current Standards Committee provides membership of 2 independent members, 3 district councillors and one parish councillor selected by rotation from parish councillors nominated by their council. The proposed new regime will require the appointment of additional members to Standards Committee to ensure the establishment of at least 2 sub-committees of that committee. Each sub-committee will require at least 3 members to be quorate. It is proposed in the consultation paper that an independent member chairs each sub-committee.

The purpose of this report is to consider recommendations for the appointment of further members of the Standards Committee to enable these proposals to be effected.

4. RECOMMENDATIONS

The Standards Committee recommend to Council amendment to the Constitution as follows:

that the Constitution be amended to provide for a minimum of 8 members of the Standards Committee in total with the addition of one District Councillor and one Parish Councillor.

that Council appoints one additional member of the District Council as a member of the Standards Committee. There is no requirement on making such an appointment to apply the rules relating to political balance to such an appointment.

That Council approves the appointment of one additional parish councillor to be selected as required by rota in accordance with the current selection process for parish councillors to sit on the Standards Committee to ensure that at any time 2 members of parish councils may sit on the Standards Committee.

that amendments to the Constitution be approved as detailed in the attached appendix to effect all the above recommendations.

3. DETAILS OF REPORT

- 3.1 It is recognised that the current constitution of the Standards Committee will be insufficient to carry out the functions proposed in the Act in a robust, independent way free from conflicts of interest. It will be essential for the Standards Committee to establish 2 sub-committees with each sub-committee being made up of, at least, 3 members. By virtue of the proposed regulations, the chair of each sub-committee may be required to be a member who is independent from the Council.
- 3.2 The proposals of the Act may require the Standards Committee or its sub-committee to meet more often than currently anticipated depending on the number of complaints received. Complaints will have to be dealt with within statutory time limits For the period April 2007 to date the Standards Board has processed 13 complaints of which 5 have been referred to the Monitoring officer for investigation. The Standards Committee or its sub-committees will be required to meet to process all such complaints regardless of whether or not investigation is required. The Committee will require sufficient

members to ensure each meeting is quorate and allow for absence of members.

- 3.3 The current consultation document proposes that members who sit on the sub committee to make initial assessments of complaints will not be able to sit on the sub-committee constituted to consider requests to review decisions made at that initial assessment. However it is recognised that members who sit on the initial assessment of allegations will not be permitted to sit on the sub-committee set up to hear investigations into complaints.
- 3.4 The membership and terms of office of the sub-committees can be matters for the Standards Committee itself to decide (s.102(2) of the Local Government Act 1972). Whatever this committee decides must be reflected in the Constitution. It is for the Council to approve the amendments to the Constitution. Such matters can be referred direct to Council and do not have to be referred to the Constitution Committee for approval. It is proposed these matters are passed to the Constitution Committee for information.

4. OTHER OPTIONS CONSIDERED AND ASSESSED

If the Council does not increase the number of members available to serve on the Standards Committee, this Council will be unable to meet its statutory obligations set out in the Act.

It may be possible to meet such obligations with the provision of joint Standards Committees as permitted by the Act or the sharing of independent members. Neither of these options have been explored. A legal barrier exists which will prevent members appointed by this Council representing other councils unless also employed by that council

5. COMMENTS OF DEPUTY SECTION 151 OFFICER

There will be some minor budgetary implications associated with the recommendation detailed in the report. However, these should be contained within the revenue budget proposed for 2008/09.

6. COMMENTS OF MONITORING OFFICER

The monitoring officer accepts the Standards Committee as currently constituted will not meet the Council's statutory obligations.

8. CONTACT OFFICER

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APPENDIX **CONSTITUTION OF THE STANDARDS COMMITTEE** **AMENDMENTS TO THE CONSTITUTION**

To take effect as soon the appropriate part of the Local Government and Public Involvement in Health Act has been commenced.

PAGE 34 - Complain to the Standards Committee.....

PAGE 50 – Article 10

(a) Membership of the Committee

The Standards Committee will be composed of :-

- (i) 4 Councillors other than the Leader
- (ii) 2 persons who are not Councillors or officers of the Council or any other body having a standards committee (independent members)
- (iii) 2 ~~members of a~~ parish council **members** wholly or mainly in the Council's area (Parish Members), one of whom is to be appointed by the Monitoring Officer for each meeting of the committee from a panel convened by the Lincolnshire Association of Local Councils

(b) Membership of the Sub- Committees

The Standards Committee shall appoint 6 of its members to sit on 2 sub-committees with 3 members sitting on each sub-committee. Each sub-committee shall consist of:-

- (i) An independent member who shall chair the sub-committee meeting
- (ii) A district councillor and;

(iii) A parish councillor who is a member of a parish council wholly or mainly in the Council's area to be appointed by the Monitoring Officer for each meeting of the sub-committee from a panel convened by the Lincolnshire association of Local Councils.

The sub- committees are to be referred to as the Assessment sub-committee and the Review sub-committee

(c) **Independent Members** (as existing)

(d) **Parish Members** (as existing)

(e) **Chairing the Committee or Sub-Committee**

An independent member shall chair the committee and the sub-committees

10.3 **Role and Function of the Committee**

(i), (ii), (iii), (iv), (v), (vi) As exists

(vii) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by the Standards Board for England or any subcommittee of the Standards Committee.

10.4 **Role and Function of the Sub-Committees**

(a) **The Assessment Sub-Committee**

(i) The Assessment sub-committee shall receive and consider reports from the Monitoring Officer of all complaints received by the Monitoring Officer about the conduct of a member of the Council and any parish council within the Council's area.

(ii) Such reports will be considered and dealt with within the time limits prescribed by legislation.

(iii) The Assessment sub-committee shall consider all matters detailed in the Monitoring Officer reports and either refer the matter to the Monitoring Officer for investigation and report to the Standards Committee; refer the matter back to the complainant for further information; notify the complainant the complaint does not merit any further action giving clear reasons for the decision; refer to the Standards Board for England for investigation or; refer the matter for mediation or member training.

(b) **The Review Sub-Committee**

(i) The Review sub-committee shall receive and consider requests for a review of a decision of the Assessment sub-committee where it is considered there has been a decision which is unreasonable in law or; because the correct procedures were not followed or; the complainant has provided new information in their request for review.

- (ii) Such requests shall be reviewed within time limits prescribed by legislation.
- (iii) The Review sub-committee shall either refer the matter to the Monitoring Officer for investigation and report to the Standards Committee or notify the complainant the review does not merit any further action giving clear reasons for the decision or; refer the matter to the Standards Board for England for investigation or; refer the matter for mediation or member training.

(c) **Restriction on Members of a Sub-Committee**

Any member of a sub-committee of the Standards Committee who has been involved in a meeting of that sub-committee to consider any reports or requests may not take part in any determination relating to such matters at the Standards Committee.

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15.3 Functions of the Monitoring Officer

- **Receive all complaints relating to District and Parish Councillors and report all complaints to the Assessment sub-committee for consideration**
- **Produce reports to the Review sub-committee relating to any requests for consideration of decisions from the Assessment sub-committee.**

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**Standards Committee
(8 members)**

**List independent members and 4 District Councillors
2 Parish Councillors to be appointed by the Monitoring Officer for each meeting from a panel convened by the Lincolnshire Association of Local Councils.**

1. **4 members of the authority other than the Leader plus 2 independent members and 2 parish council members.**
- 3 **..... and in accordance with the provisions of the Local Government and Involvement in Public Health Act 2007.**
- 5 **Other functions – functions relating to standards of conduct of members under any relevant provision of or, or regulation made under, the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007**