

## **BABERGH DISTRICT COUNCIL**

**FROM:** The Monitoring Officer

**REPORT NUMBER:** **H64**

**TO:** STANDARDS COMMITTEE

**DATE OF MEETING:** 11 July 2008

### **THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008**

#### **1. PURPOSE OF REPORT**

- 1.1 This report is to update Members on the outcome of consultation with the Standards Board for England on matters arising from report H28 as discussed by the Standards Committee on 15 May 2008.
- 1.2 Further, to put in place procedures to reflect the guidance provided by the Standards Board.

#### **2. RECOMMENDATIONS**

- 2.1 That the remit of the Assessment Sub-Committee be extended to receive a report from the Monitoring Officer pursuant to paragraphs 13 and 16 of the Standards Committee (England) Regulations 2008 following referral of an allegation for investigation or other action, and for the Sub-Committee to make a determination in each case.
- 2.2 That the remit of the Hearings Sub-Committee be extended to receive a report from the Monitoring Officer pursuant to paragraph 17 of the Standards Committee (England) Regulations 2008 following an investigation and to make a determination in respect of that report.
- 2.3 That the terms of reference of the Standards sub-committees be further extended to include such additional functions not covered in 2.1 and 2.2 above that fall to be considered by such sub-committees pursuant to the Standards Committee (England) Regulations 2008.

The Committee is able to resolve this matter

#### **3. FINANCIAL IMPLICATIONS**

- 3.1 None arising directly from this report.

#### **4. RISK MANAGEMENT**

- 4.1 This report is most closely linked with the Council's Significant Business Risk No. 4 (Governance). Key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
The Standards Committee fails to delegate authority to a Sub-Committee to undertake the full extent of functions arising under the Regulations.	Low	Significant	Widen the remit of the Sub-Committees to undertake all appropriate functions under the Regulations.

## 5. **KEY INFORMATION**

- 5.1 At its meeting on 15 May 2008, the Committee considered report H28 which detailed the functions, responsibilities and procedures established by the Standards Committee (England) Regulations 2008 concerning local assessment of complaints under the Code of Conduct. The Committee asked the Monitoring Officer to contact the Standards Board for England concerning two points arising from the Regulations, namely:-
- (i) The requirement under Regulation 8 to give written notice of a meeting of the Standards Committee or Sub-Committee to Parish Councils within the district, and
  - (ii) the requirement under Regulation 17 for the Monitoring Officer to report to the Standards Committee following an investigation.
- 5.2 The concern in relation to point (i) above was the practicality of notifying 67 Parish Councils of every meeting, and the purpose of doing so where the meeting is closed to the public with disclosure of information concerning the complaint prohibited. The issue concerning point (ii) above concerned the apparent need for the full Standards Committee to consider the Monitoring Officer's report when the same Members would be considering the complaint if it is referred for hearing.
- 5.3 The Standards Board has responded to these queries by way of general guidance. It has confirmed that the notice requirements to parish councils are not intended to apply to any meetings of a sub-committee to assess or review a complaint. In relation to the second issue, the Standards Board has suggested that since the definition of "standards committee" includes a sub-committee, then the report from the Monitoring Officer following an investigation may be referred to a hearings sub-committee. The Standards Board considers that the same sub-committee could go on to hear the case without raising an issue of pre-determination or apparent bias. The Board accepts however that where a sub-committee has decided that there is a case for the councillor to answer, contrary to the recommendation of the Monitoring Officer, then the councillor might well be unhappy with those same members of the sub-committee hearing the case. The Board points out that there is nevertheless no legal requirement for a differently constituted sub-committee, although it accepts that this might be prudent if possible. The Monitoring Officer would advise that hearings sub-committees are made up of different members to ensure the highest standards of fair decision-making which are also seen to be so.

- 5.4 The Monitoring Officer has further sought clarification from the Standards Board that it is the assessment sub-committee rather than the full committee that should receive the Monitoring Officer's written report within three months of a referral for action to be taken other than investigation. The Standards Board has acknowledged that the Regulations are not altogether clear in this regard, but has confirmed that it would be more appropriate for the assessment sub-committee to consider such a report.
- 5.5 In light of the above clarification, it is apparent that the sub-committees will have functions wider than the initial assessment, review and hearing of a complaint as provided under the current delegations from the full Standards Committee. It will, therefore, be necessary to widen the remit of the assessment and hearings sub-committees in particular, so that they may deal with written reports which produced by the Monitoring Officer following a referral. It is advisable for those delegations to be broad in nature to cover the functions that will arise under the Regulations, particularly in view of the different interpretations that may be applied to which committee should undertake certain functions.

6. **APPENDICES**

None.

7. **BACKGROUND PAPERS REFERRED TO:**

E-mail communication from the Standards Board for England dated 27 May 2008.

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