



# **STANDARDS COMMITTEES: APPOINTMENTS AND PROCEDURES**

**A Consultation Paper issued by the Department of the Environment,  
Transport and the Regions**

**December 2000  
Department of the Environment, Transport & the Regions**

## Contents

	Page
About this consultation exercise	3
Background	5
Size of committees	6
Composition of committees	6
<i>Independent members</i>	6
<i>Executive members</i>	6
<i>Parish members</i>	7
Appointment of Independent Members	8
Agendas & Records, Public Access & Publicity	9
Validity of Proceedings	10
Transitional Arrangements	11
Summary	12

## About this consultation exercise

The Local Government Act 2000 provides for a new statutory framework governing the conduct of local government members and employees. As part of this framework, all relevant authorities in England<sup>1</sup> are required to establish standards committees. By the terms of the Act, the Government can regulate for the way in which such committees are to be set up and operate.

At annex A, are draft regulations, which the Government proposes to make in the spring of next year. These govern the composition of standards committees; the way in which independent members should be appointed; and the procedural rules under which committees should operate.

They are of particular interest to members and senior officers of relevant authorities, who will be directly affected by them. They will also be of general interest to the wider public. Copies of the consultation paper are being sent to every principal council in England and to the organisations representing members of other authorities to whom these regulations will apply. Copies are also being sent to a range of bodies, including academic institutions, which have an interest in local government. Responses to the questions raised in this paper and, more generally, on the scope and content of the regulations are sought by **9 March 2001**.

Responses should be sent to:

Victoria Coward  
Local Government Legislation Division  
Zone 5/D1  
Eland House  
Bressenden Place  
London SW1E 5DE

Fax: 020 – 7944 – 5183  
e-mail: [lg1@detr.gsi.gov.uk](mailto:lg1@detr.gsi.gov.uk)

Any questions, comments or complaints about this consultation exercise should be sent to:

Alison Morris  
Local Government Legislation Division  
Zone 5/D1  
Eland House  
Bressenden Place  
London SW1E 5DE

Fax: 020 – 7944 – 5183  
e-mail: [lg1@detr.gsi.gov.uk](mailto:lg1@detr.gsi.gov.uk)

---

<sup>1</sup> "Relevant authorities" is defined in s.49(6) of the Act. For the purposes of this document it includes county, county borough, district, London Borough, and parish councils; the Common Council of the City of London, the Greater London Authority, the London Fire and Emergency Planning Authority, Police Authorities in England and Wales, the Council of the Isles of Scilly, Fire Authorities, the Broads Authority and National Parks.

In due course, the Department may wish to publish responses to this consultation exercise or deposit them in the Department's library. Unless, therefore, a respondent specifically asks that a response be treated as confidential, it may be published, or otherwise made public. Confidential responses will be included in any statistical summary of the numbers of comments received and views expressed.

## **Background**

1. Part III of the Local Government Act 2000 provided for the establishment of a new statutory framework governing the conduct of members and officers in local government. It came into force on 19 December 2000.
2. Sections 53(1) and (2) of the Act require all relevant authorities in England (except parish councils) and police authorities in Wales, to establish standards committees for the purpose of promoting and maintaining high standards of conduct in the authority and assisting the authority's members to observe the authority's code of conduct.
3. By virtue of sections 55(1) and (2) of the Act, a district council's standards committee (or the standards committee of a unitary county council) is to have responsibility for the promotion and maintenance of standards of conduct in the parishes in its area. Sections 55(6) and (7) require there to be appropriate parish representation on the committee whenever parish matters are discussed.
4. In promoting high standards of conduct in authorities, standards committees will be specifically required to advise the authority on the adoption of its code of conduct. Authorities must adopt such codes within six months of the Government issuing a model code of conduct. The Government expects to issue the model code, following consultation, in mid-2001. Authorities, therefore, will want to have established standards committees by that time. In order that they can do this, authorities will need to know the detail of any regulations governing the composition and procedures of standards committees. Under section 53(6) of the Act, such regulations can cover:
  - the size of committees;
  - their composition; and
  - the appointment of independent members;and in respect of meetings:
  - agendas;
  - records;
  - access of the public;
  - publicity; and
  - proceedings
5. The draft regulations at annex A make provision in respect of these matters, together with transitional arrangements to reflect the fact that some authorities have already established standards committees under the Local Government Act 1972. The following sections of this paper explain the provisions in greater detail.
6. The Government intends to make the regulations next spring, before the model code of conduct is issued.

## Size of Committees

7. By virtue of section 53(4) of the Act, standards committees must have a minimum of three members. However, there are no restrictions on the maximum size of committees.
8. The Government believes that effective standards committees are likely to be fairly small. The best available evidence suggests that the majority of standards committees that have been established under the 1972 Act have no more than seven members. The Government, however, is reluctant to use the regulations to place upper limits on the size of standards committees. Wherever the limit is set, there will always be situations where an authority might have been justified in establishing a larger committee. The Government believes, therefore, that the size of committees should be for local decision. It does not propose to use the regulations to impose upper limits. Nor does it propose to regulate for the size of committees in any other way – although regulation 3(c) (see paragraph 16 below) has the effect of requiring district councils and unitary county councils to establish committees with a minimum membership of four.

**Question 1**                    **Is there any need to limit the maximum size of committees?**

## Composition of Committees (see Regulation 3)

### Independent Members

9. Section 53(4)(b) of the Act requires that every standards committee includes at least one independent member<sup>2</sup>.
10. Independent members will be vital to the work of standards committees and to the perception that the public have about the integrity of the committee and its ability to promote high standards of conduct in authorities. It is important, therefore, that the independent voice is not drowned by that of other members of the committee. To guard against this, the Government proposes to regulate, so that at least 25% of a standard committee's members must be independent of the authority [see Regulation 3(a)].

### Executive members

11. The standards committee of an authority will be responsible for assisting all members and co-opted members of the authority to maintain high standards of conduct.

---

<sup>2</sup> An independent member is a person who is not a member or an officer of that authority, or any other relevant authority.

12. Section 53(5) of the Act already prevents the elected mayor, or executive leader, of an authority from being a member of its standards committee. Nor can the committee be chaired by a member of the executive<sup>3</sup>. However, the Government does not believe, as some have argued, that executive members should never be members of standards committees. Arguably, many of the most difficult issues of conduct arise in relation to decision making and the exercise of executive functions. This alone justifies the inclusion of executive members on standards committees. However, for the same reason, it is important that an appropriate balance is established and that committees are not seen to be creatures of the executive. The Government therefore proposes to limit the number of executive members allowed to sit on committees to just one [See Regulation 3(b)].

### Parish members

13. Sections 55(1), 55(2) and 55(3) of the Act require district and unitary county councils to promote high standards of conduct in the parishes for which they are responsible, through their standards committee, or by means of a sub-committee appointed for that purpose.

14. Sections 55(6) and 55(7) of the Act require that a representative of the parishes is present when parish affairs are dealt with through the main standards committee or a sub-committee. In addition, where parish issues are discussed in a sub-committee, an independent member of the standards committee must also be present.

15. The Government believes that it would be helpful to go further than this. Looking at the basic work of standards committees:

- advising the council on its code of conduct;
- providing guidance and training to members
- reviewing the code, or the council's procedures, in the light of guidance from the Standards Board or recommendations from Adjudication Panels

some issues are likely to arise which will be common to both the district (or unitary county) and its parishes. Where a sub-committee has been set up to deal parish matters, it might nevertheless be helpful if the main committee were to have the capacity to discuss parish issues.

16. For this reason, the Government proposes to use the regulations to require district and unitary county councils to include a parish member on their standards committees, even where they have adopted a sub-committee structure [see Regulation 3(2)(a)]. A parish presence on both the main and sub-committees would help ensure there was a degree of continuity between their work.

---

<sup>3</sup> "Elected mayor", "executive leader" and "executive" have the meaning given in sections 39(1), 11(3)(a) and 11 of the Local Government Act 2000.

17. The Government believes that it will be important that the parish voice on committees and sub-committees should be seen to be wholly independent of the district (or unitary county). It therefore proposes that the parish representative on a committee or sub-committee cannot be both a member of the parish and district (or unitary county) council [see Regulation 3(2)(b)]. This is not to deny such members the opportunity to sit on standards committees. It simply means that they cannot be the parish representative as required under sections 55(6) or 55(7).

**Question 2**                    **Is the Government right to require a minimum number of independent members?**

**Question 3**                    **Is 25% the right proportion of independent members?**

**Question 4**                    **Should the number of executive members on the committee be limited?**

**Question 5**                    **Should it be limited to 1?**

**Question 6**                    **Should committees in districts and unitary councils be required to include a parish member, even where they deal with parish issues through a sub-committee?**

**Question 7**                    **Should members who serve on both the district (or unitary county) council and a parish, be prevented from being the parish representative on committees and sub-committees?**

#### **Appointment of Independent members (see Regulation 4)**

18. As already stated, the role of independent members will be important to the public's perception of the effectiveness of standards committees. It will be important that such members are seen to be genuinely independent of the authority. The Government believes therefore that the regulations must provide for an appointment process that guarantees the independence of such members.

19. The Government proposes that authorities should be required to advertise for independent members in two or more local newspapers, including, where they publish one, the authority's own newspaper [see Regulation 4(b)].

20. All applications should be considered by a selection panel set up for that purpose by the authority, who will make recommendations to the full council. The Government does not propose to regulate for the size, composition or rules under which the panel should operate. These will be matters for authorities to decide [see Regulations 4(c) and 4(d)].



21. As a further safeguard of independence, it will be important that the independent member is seen to command the wide support of the council. The panel's recommendation, therefore, will have to be agreed by at least 75% of the council [see Regulation 4(a)].
22. Furthermore, Regulation 4(2) proposes that a person should be disqualified from being an independent member if he, or she, is related to, or has a close friendship or relationship with a member or officer of the authority, which might reasonably be thought to prejudice the person's independence [see Regulation 4(2)(a)]; or if he or she is a co-opted member of a committee or sub-committee (other than a Standards Committee) of a relevant authority [see Regulation 4(2)(b)].
23. Transitional arrangements for authorities that have already established standards committees with independent members are dealt with at paragraphs 31 – 35 of this consultation paper.

- Question 8**                    **Is the Government right to regulate for the appointment of independent members?**
- Question 9**                    **Are the requirements in Regulations 4(a), (b), (c) & (d) reasonable?**
- Question 10**                   **Are the disqualifications in Regulations 4(2)(a) & 4(2)(b) appropriate?**

**Agendas & Records, Public Access & Publicity (see Regulation 6)**

24. The way in which committees and sub-committees of principal local authorities conduct their affairs is regulated by Part VA of the Local Government Act 1972. This provides for the production of agendas for meetings; the advance publicity that councils should give to meetings; the extent to which meetings should be open to the public; and the public's access to papers for, and records of committees and sub-committees.
25. The Government believes that the same rules, with only minor modifications, should govern the proceedings of standards committees and sub-committees. Regulation 6, therefore, applies Part VA of the 1972 Act to standards committees and sub-committees, with the exception of sections 100E, 100G, 100J and 100K, which are technical and of no relevance to the application of Part VA to standards committees.
26. Sections 100A–D, F, H, I and schedule 12A to the 1972 Act will apply, with the following modifications.
27. Under sections 100A, 100B and 100C of the 1972 Act, authorities are required to give public notice of a meeting by posting it at the offices of the council. They are also required to make available at their offices, the agenda, minutes and reports of meetings. Regulation 6(3) will, in addition, require district and unitary county councils to post notice of meetings and make available agendas, minutes and reports at the offices of the parishes for which they are responsible.

28. Essentially, therefore, the effect of applying Part VA of the 1972 Act to Standards Committees will be that:

- the meetings of standards committees and sub-committees should be open to the public unless a confidential or exempt item of business is under discussion;
- the public should be given at least 3 clear days notice of the time and place of a standards committee or sub-committee meeting. Such notice should be posted at the offices of the relevant authority and, where relevant, the parishes for which that authority is responsible;
- an agenda should be made available 3 clear days beforehand and
- agendas and other records of the meeting (i.e. minutes and reports) should be kept available for inspection for 6 years from the date of the meeting.

**Question 11**                    **Should Part VA of the 1972 Local Government Act, suitably amended, govern the proceedings of Standards Committees?**

**Question 12**                    **Are the modifications relating to parish councils reasonable?**

**Question 13**                    **Is there any other aspect of the proceedings of standards committees that needs to be regulated?**

**Validity of proceedings (see Regulation 7)**

29. Standards committees and sub-committees have an important role to play in the promotion and maintenance of high standards of conduct within authorities. Members of the authority and, in the case of district and unitary county councils, parish members must have confidence in the proceedings of the committee. Committees need also to retain the respect of the wider public. It will be important, therefore, that independent and parish members are not excluded from the meetings of committees and sub-committees.

30. The Government proposes that the proceedings of a committee or sub-committee should not be valid unless:

- 2 members of the committee (or sub-committee) are present [see Regulation 7(2)];
- in 2, 3, or 4 member meetings, at least one independent member is present [see Regulation 7(2)(a)];
- in larger meetings, at least 2 independent members are present [see Regulation 7(2)(b)];
- at a meeting of a committee, or sub-committee, of a district or unitary county council, the parish representative is present [see Regulation 7(3)].

**Question 14**                    **Are the rules on validity reasonable?**

**Question 15**                    **Should any other rules on validity be established?**

### Transitional Arrangements (see Regulation 5)

31. Many authorities have already established standards committees under general powers contained in the 1972 Local Government Act. With the commencement of section 53 of the Local Government Act 2000, such committees may only exercise such functions as are permitted by the 2000 Act. They must also comply with any regulations made under the 2000 Act, in respect of their establishment or the procedures under which they operate.
32. Therefore, when the regulations at annex A are made in the Spring, existing standards committees will have to conform to them.
33. By and large, the Government does not believe that it is unreasonable to expect existing standards committees to amend their procedures in line with the regulations. However, the Government does recognise that many authorities have already appointed independent members to their standards committees and that many of these will only recently have taken up their positions. It is unlikely that the appointment process of such members will have precisely mirrored that set out in Regulation 4. Yet even though the appointment process may not have complied with the letter of the regulations, many authorities will have advertised the appointments and undertaken some sort of selection process. In the circumstances, the Government does not believe that it would be reasonable to expect authorities (or independent members) to have to go through the process again. If, therefore, authorities are satisfied that their appointment process was sufficiently rigorous to guarantee the independence of their independent member, Regulations 5(b) and (c) allows them to delay any reappointment process for up to two years.
34. However, authorities may only avoid having to reappoint their independent members if those individuals are not disqualified by reason of Regulation 4(2) (see paragraph 22 above).
35. Of course, if authorities have to appoint additional independent members to ensure that their standards committees comply with regulation 3(a) (see paragraph 10 above), they will have to comply with the appointments requirements in regulation 4(1).

**Question 16**                    **Is it reasonable that authorities should be able to avoid having to reappoint existing independent members for up to two years?**

**Question 17**                    **Should the disqualification rules in regulation 4(2) apply to existing independent members?**

## Summary

36. This consultation paper raises a number of questions on which the Government would be interested in views. These are:

- Question 1                    Is there any need to limit the maximum size of committees?
- Question 2                    Is the Government right to require a minimum number of independent members?
- Question 3                    Is 25% the right proportion of independent members?
- Question 4                    Should the number of executive members on the committee be limited?
- Question 5                    Should it be limited to 1?
- Question 6                    Should committees in districts and unitary councils be required to include a parish member, even where they deal with parish issues through a sub-committee?
- Question 7                    Should members who serve on both the district (or unitary county) council and a parish, be prevented from being the parish representative on committees and sub-committees?
- Question 8                    Is the Government right to regulate for the appointment of independent members?
- Question 9                    Are the requirements in Regulations 4(a), (b), (c) & (d) reasonable?
- Question 10                    Are the disqualifications in Regulations 4(2)(a) & 4(2)(b) appropriate?
- Question 11                    Should Part VA of the 1972 Local Government Act, suitably amended, govern the proceedings of Standards Committees?
- Question 12                    Are the modifications relating to parish councils reasonable?
- Question 13                    Is there any other aspect of the proceedings of standards committees that needs to be regulated?
- Question 14                    Are the rules on validity reasonable?
- Question 15                    Should any other rules on validity be established?
- Question 16                    Is it reasonable that authorities should be able to avoid having to reappoint existing independent members for up to two years?
- Question 17                    Should the disqualification rules in regulation 4(2) apply to existing independent members?

37. The Government would also welcome any other views or comments on the draft regulations at annex A.

---

DRAFT STATUTORY INSTRUMENTS

---

2001 No.

## LOCAL GOVERNMENT, ENGLAND

## LOCAL GOVERNMENT, WALES

The Relevant Authorities (Standards Committee) Regulations  
2001

<i>Made</i> - - - -	2001
<i>Laid before Parliament</i>	2001
<i>Coming into force</i> - -	2001

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by sections 53 (6), (12), 55 (8) and 105 (2) of the Local Government Act 2000(a) and all other powers enabling him in that behalf hereby makes the following Regulations:-

**Citation and commencement**

1.—(1) These Regulations may be cited as the Relevant Authorities (Standards Committee) Regulations 2001.

(2) These Regulations apply in relation to England and to police authorities in Wales.

(3) These Regulations come into force on \*\*\*

**Interpretation**

2. In these Regulations—

“the Act” means the Local Government Act 2000;

“independent member” means a person appointed to a standards committee or standards sub-committee under section 53 (4)(b) or 55 (7)(b) of the Act;

“relevant authority” has the same meaning as in section 49 (6) of the Act with the exception of paragraphs (e) and (f), and

“responsible authority” means a district council or unitary county council which has functions in relation to the parish councils for which it is responsible under section 55 (12) of the Act;

### **Size and Composition of Standards Committees**

- 3.—(1) A relevant authority must ensure that—
- (a) where its standards committee has more than three members, at least 25% are independent members;
  - (b) where it is operating executive arrangements under Part II of the Act, no more than one member of its standards committee is a member of the executive.
- (2) Where a relevant authority is a responsible authority, it must ensure that—
- (a) if its standards committee has appointed a sub-committee, that standards committee includes at least one member of any of the parish councils for which the authority is the responsible authority.
  - (b) a member of its standards committee or sub-committee appointed under section 55 (6)(a) or 55 (7)(b) of the Act, or regulation 3 (2)(a) of these regulations, is not also a member of that responsible authority.

### **Appointment of Independent Member**

- 4.—(1) An independent member may not be appointed to a standards committee or sub-committee unless the appointment is—
- (a) approved by at least 75% of the members of the relevant authority;
  - (b) advertised in two or more newspapers circulating in the area of the relevant authority and where a relevant authority themselves publish a newspaper, the advertisement must be published in that and at least one other newspaper circulating in the area;
  - (c) made from those applicants who have submitted applications under regulation 4 (1)(b) of these regulations, and
  - (d) recommended by a panel of persons, the size, composition, and proceedings of which are determined by the relevant authority.
- (2) An independent member of a standards committee or sub-committee may not be appointed if—
- (a) he is related to, or is maintaining or has maintained, a friendship or personal relationship, with a member, co-opted member, or officer of that relevant authority, or the parish councils for which that authority may be the responsible authority, where a reasonable person would conclude that that relationship would influence his judgement, or
  - (b) he has been appointed to a committee, sub-committee, joint committee, or joint sub-committee, (other than a standards committee or sub-committee), of that or any other relevant authority.

### **Transitional Provision for Independent Members**

5. Where a relevant authority has before [date regulations come into force] established a committee which has among its functions that of promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and which includes a person who would otherwise be an independent member of a standards committee -
- (a) a relevant authority need not establish another committee under section 53 (1) of the Act, and where it does not, that existing committee shall be treated as if it were a standards committee for the purposes of the Act and these regulations;
  - (b) any member of such a committee appointed before [date regulations come into force] who would otherwise be an independent member of a standards committee need not be appointed pursuant to regulation 4 (1) of these regulations, and
  - (c) after [2 years after commencement of these regulations] any member of such a committee who would otherwise be an independent member of a standards committee must be appointed pursuant to regulation 4 (1) of these regulations.

### **Application of the Local Government Act 1972**

6.—(1) Subject to paragraphs (2) and (3), Part VA of the Local Government Act 1972(a) shall apply in relation to standards committees or sub-committees of relevant authorities as it applies to principal councils.

(2) Sections 100E, 100G, 100J, and 100K of the Local Government Act 1972 shall not be so applied.

(3) The references in sections 100A (6)(a), 100B (1) and 100C (1) of the Local Government Act 1972 to “offices of the council” shall, in relation to responsible authorities, be construed as references to the offices of that district council or unitary county council, and also the parish councils for which the authority is the responsible authority.

### **Validity of proceedings**

7.—(1) The functions conferred by the Act upon a standards committee or sub-committee may be exercisable by a meeting of the committee or sub-committee.

(2) A meeting of a standards committee or sub-committee shall not be quorate unless at least two members of the committee or sub-committee are present for its duration, and –

- (a) Where the meeting consists of two, three or four members of the committee or sub-committee, at least one independent member is present for its duration, or
- (b) Where the meeting consists of more than four members of the committee or sub-committee, at least two independent members are present for its duration.

(3) A meeting of a standards committee or sub-committee of a responsible authority shall not be quorate unless the member appointed under section 55 (6)(a) and 55 (7)(b) of the Act is present for its duration.

Parliamentary Under Secretary of State  
Department of the Environment, Transport, and the Regions

---

(a) 1972 (c. 70).



## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations apply to relevant authorities as defined in regulation 2. They set out additional compositional and procedural requirements on standards committees that are established under section 53 of the Local Government Act 2000.

Article 3 makes provision for the composition of standards committees and prescribes a minimum number of independent members and a maximum number of executive members.

Article 4 prescribes a procedure for the appointment of independent members, and article 5 makes transitional provision enabling relevant authorities to retain standards committees already in existence before the commencement of the Act, and in respect of the appointment procedure for independent members.

Article 6 applies parts of Part VA of the Local Government Act 1972 (access to meetings and documents) to standards committees.

Article 7 requires meetings of standards committees to have a quorum.