

STANDARDS COMMITTEE – 23 APRIL 2009

TERMS OF REFERENCE FOR THE STANDARDS COMMITTEE

Report of the: Monitoring Officer

Status: For discussion and consideration

Executive Summary: The Constitution of the Council sets out the Standards Committees current terms of reference. Some Standards Committees take on extra functions and those that have been identified by the Standards Board for England in their guidance documentation are set out in this report for discussion and consideration.

This report supports the Key Aim of effective management of Council resources

Portfolio Holder Cllr. Loney

Head of Service Head of Legal and Committee Services – Christine Nuttall

Recommendation: It be RESOLVED that Members consider extra functions for the Standards Committee to be included within their Terms of Reference.

Background

- 1 The Standards Board for England (the Board) have stated in their guidance documentation that some standards committees have taken on extra functions to give them a wider governance role. The purpose of this report is to look at the Standards Committee's current terms of reference against the extra functions identified by the Board that Standards Committees may include.

Introduction

- 2 The Standards Committee last looked at its Terms of Reference at its meeting on the 4th March 2008 when it recommended to Council that the Committees' terms of reference be widened as set out in Part 3, paragraph 7 of the Constitution to enable the Standards Committee to have the additional role and functions under any relevant provisions of, or regulation made under the Local Government and Public Involvement in Health Act 2007.
- 3 The Standards Committee (England) Regulations 2008 came into force on the 8th May 2008. The Regulations set out the details of how the new locally based system for the assessment of alleged complaints relating to breaches of the Code of Conduct by District Councillors, Parish/Town and Co-opted Members would operation. The changes made to the Standards Committees' terms of reference allowed the Committee to implement such changes.

The Standards Committee's Current Terms of Reference

- 4 The current terms of reference of the Standards Committee are set out within Part 3 of the Constitution and are as follows:
- (a) promoting and maintaining high standards of conduct by Members and any Co-opted Members;
 - (b) assisting the Members and any Co-opted Members to observe the Members' Code of Conduct;
 - (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
 - (d) monitoring and advising the Council about the operation of the Members' Code of Conduct in light of best practice, changes in the law and guidance from the Standards Board for England;
 - (e) advising, training or arranging to train Members and any Co-opted Members on matters relating to the Members Code of Conduct and ensuring that this training is actively promoted and that Members are aware of the standards expected from them under the Code;
 - (f) granting dispensations to Members and any Co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
 - (g) functions relating to standards of conduct of Members under any relevant provision of, or regulations made under, the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007;
 - (h) 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 an Ethical Standards Officer to the Monitoring Officer;
 - (i) the exercise of (a) to (h) above in relation to the parish/town councils wholly or mainly in its area and the Members of those parish/town councils and any Co-opted Members; and
 - (j) delegated authority to make amendments to the Local Assessment Procedure following any amendments to the Standards Committee (England) Regulations 2008 and the guidance produced by the Standards Board for England.
 - (k) delegated authority to make amendments to the 'Guidance on Applying Appropriate Sanctions when a Member has breached the Code of Conduct' should any amendments to the Guidance be received from the Standards Board for England.

The Board's Suggestions for a Wider Role

- 5 The Board has set out in its guidance entitled "Local Standards Framework" that some standards committee do take on extra functions. These may include:
 - dealing with the protocol for members and authority employees' relations
 - receiving reports on complaints procedures and/or reports from the Local Government Ombudsman or external auditors
 - setting up the independent remuneration panel
 - commenting on recommendations on members' allowances
 - responsibility for ensuring that the constitution is designed to reduce the opportunity for misconduct and to promote effective governance.
- 6 The Board believes that giving standards committees wider-reaching responsibilities is a positive step and will help promote confidence in local democracy. It will also provide a workload which is regular and interesting, and should in turn aid the recruitment and retention of independent members.
- 7 In relation to the suggested function entitled "dealing with the protocol for members and authority employees' relations" the Council's protocol is set out in the Constitution and is entitled "Protocol on Councillor/Officer Relations". Responsibility and the operation of this Protocol lies with the Chief Executive. The Protocol is set out as an Appendix to this report. Members are referred in particular to the last item within the Protocol entitled "When Things Go Wrong" which sets out the procedure to be followed for Officers and for Members. In relation to Officers the Protocol states:

"From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have resource to the Council's Grievance Procedure or the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, to the Standards Committee for consideration and determination".
- 8 The present Protocol and arrangements appear to be working well and no suggestion has been made that the Protocol and/or arrangements need to be changed.
- 9 The Monitoring Officer would like to draw Members' attention to the fact that she has been tasked in conjunction with the Head of Development Control to carry out an "action learning set" in respect of improving Member and Officer relationships. An "action learning set" is in essence a group tasked with a project which following scoping of a particular problem, devises an action plan

to improve or solve a problem. The action learning set, in relation to improving Member/Officer relationships is in its early stages and anticipates carrying out the scoping aspect of the project shortly. It has been suggested that the group includes an Independent Member from the Standards Committee and the Monitoring Officer is looking for a volunteer in this respect. Any Independent Member who may be interested is asked to contact either the Monitoring Officer or her Secretary Shirley Winters.

- 10 Turning to the Board's suggestion that the Standards Committee receives reports on complaints procedures and/or reports from the Local Government Ombudsman or external auditors the function in relation to reports on complaints procedures and/or reports from the Local Government Ombudsman is undertaken by the Service Select Committee. The external auditors function is undertaken by the Performance and Governance Committee under the direction of the Head of Finance and Human Resources and the Director of Corporate Resources being the s.151 Officer. Again, the present arrangements appear to be working well.
- 11 In relation to the Board's suggestion that the Standards Committee could set up the independent remuneration panel this Council has a remuneration panel that has recently completed a major review of Member Allowances. This review was reported to the Modern Local Government Group Committee who has now reported to full Council. The Modern Local Government Group met on three occasions, considering matters thoroughly, prior to giving their recommendations to full Council.
- 12 Commenting on recommendations on members' allowances is another possible function that the Board has suggested may be undertaken by a standards committee. In respect of the latest remuneration review the Modern Local Government Group Committee carried out their consultation in a thorough manner prior to making their comments.
- 13 Having the responsibility for ensuring that the constitution is designed to reduce the opportunity for misconduct and to promote effective governance is also a possible function suggested by the Board that the standards committee may consider adopting. Presently the Chief Executive in consultation with the Head of Legal and Democratic Services (the Monitoring Officer), will report to the Modern Local Government Group, monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Except for changes required by statute, changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Modern Local Government Group. The Performance and Governance Committee also has the function of maintaining an overview of the Council's Constitution and make any recommendations to Council.
- 14 All the Standards Committee Policies and Protocols are largely designed to reduce the opportunity for misconduct and to promote effective governance. Although such Policies and Protocols are not normally reported to the Modern Local Government Group Committee, as they are legislative in origin, they are adopted by full Council. As a result this is a function that the Standards Committee is already engaged in and so there may be some merit in formally

adopting the function which could be considered by full Council when other constitutional changes take place.

Options

- 15 The report is for information and consideration

Key Implications

Financial

- 16 Any additional functions undertaken by the Standards Committee would be absorbed within existing budgets.

Impact on and Outcomes for the Community

- 17 As the extra functions that the Standards Committee could consider adopting are already being undertaken effectively at the present time there would not appear to be any impact or outcomes for the community if changes are made. However, the Board believes that giving standards committees wider-reaching responsibilities is a positive step and will help promote confidence in local democracy. It will also provide a workload which is regular and interesting, and should in turn aid the recruitment and retention of independent members.

Legal, Human Rights etc.

- 18 There would not appear to be any legal, or human rights implications associated with additional functions being implemented by the Standards Committee.

Resource (non-financial)

- 19 No additional non financial resource implications are identified.

Value For Money and Asset Management

- 20 There are no value for money or asset management implications associated with any of the prospective changes identified by the Board.

Equality

- 21 Members of the public will have access to the reporting processes which ever Committee carries out the suggested functions

Sustainability Checklist

- 22 The existing practices of the Authority in relation to Committee Terms of Reference are considered to be sufficiently sustainable as would any suggested changes.

Conclusions

- 23 Committees within an Authority should regularly look at their terms of Reference to ascertain whether they are still relevant and whether any additional functions should be included. As the Board have suggested in their guidance documentation standards committees having a wider role it is important for this Committee to consider the guidance that has been produced.

Risk Assessment Statement

- 24 A Constitution is a living document provided to members, available to the public and staff and placed on the Authority's web side. Therefore it is important that the Terms of Reference of the Authority's Committees are regularly reviewed. A standards committee that does not have relevant and sufficiently wide Terms of Reference would have difficulties carrying out legal responsibilities thus damaging confidence in local democracy.

Sources of Information:

The Constitution of the Authority

Guidance produced by the Board entitled "Local Standards Framework"

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