

STANDARDS COMMITTEE – 18TH JULY 2007

TERMS OF REFERENCE OF THE COMMITTEE

Report of the: Monitoring Officer

Status: For Consideration and Recommendation

Executive Summary: As part of a review of the Constitution the report sets out suggested amendments to three parts of the Constitution that deal with the workings of the Standards Committee. Reasons are given for the suggested amendments to justify the recommended changes.

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 – Mrs. Christine Nuttall

Recommendation: It be RESOLVED that:

The Standards Committee is requested to recommend to Council via the Modern Local Government Group amendments to the Constitution in respect of the Standards Committee's Terms of Reference, Composition, Membership as set out in this report and the inclusion of various previously adopted Codes and Protocols.

Introduction

- 1 The Terms of Reference of this Committee and its roles and functions are set out at pages 18, 20, 21 of Part 2, page 6 of Part 3 of the Constitution.
- 2 Officers have been reviewing the Constitution with a view to a revised document being prepared. As part of that exercise the Terms of Reference of this Committee have been looked at to make sure that they cover fully the areas laid down by the Local Government Act 2000 and other issues that appear to be relevant to the functions of the Committee.

Composition

- 3 The New Council Constitutions Modular Constitutions for English Local Authorities produced by the Local Government Association (the Modular Constitution) states:-

“Standards Committees do not have to comply with the political balance rules in section 15 of the Local Government & Housing Act 1989”.
- 4 This important provision is not presently set out in our Constitution and it is recommended that this be included.

Membership

- 5 At present the Membership of the Standards Committee is repeated in three different places in the Constitution and the number of different Members are specifically prescribed creating inflexibility for the workings of the Committee. In addition it is stated that Councillors are chosen according to political proportionality rules which directly flies in the face of the legal requirement that Standards Committees do not have to comply with the political balance rules.
- 6 It is recommended that Membership of the Standards Committee is set out only once in the Constitution thus avoiding unnecessary repetition.
- 7 That we revert back to the wording as set out in the Modular Constitution as follows:
- “The Standards Committee will be composed of at least:
- Two Councillors other than the Leader;
- One person who is not a Councillor or an Officer of the Council or any other body having a Standards Committee (an independent member); and
- One Member of a town or parish council wholly or mainly in the Council’s area (a Parish Member)”.
- 8 This form of wording will allow the Standards Committee to increase in size when and if required without the need to receive Council approval. It will also allow the Committee to continue to function if numbers were to suddenly reduce. It is envisaged that the number of Members on the Standards Committee may need to increase quickly as it is envisaged that the Government will soon require Standards Committees to undertake local filtering of allegations of Member misconduct.
- 9 The form of wording proposed would also not prevent District Council Members being chosen according to political proportionality rules.

Roles and Function

- 10 The Role and Function and then the Terms of Reference are set out in three places within the Constitution again producing unnecessary repetition and overlap.
- 11 It is recommended that the Role and Function and the Terms of Reference be amalgamated under the heading “Role and Function” to read as follows:-
- a. promoting and maintaining high standards of conduct by Councillors and any co-opted members;
 - b. assisting the Councillors and any co-opted members to observe the Councillor’s Code of Conduct;

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- c. advising the Council on the adoption or revision of the Councillors' Code of Conduct;
 - d. monitoring and advising the Council about the operation of the Councillors' Code of Conduct in the light of best practice, changes in the law and guidance from the Standards Board for England;
 - e. advising, training or arranging to train Councillors and any co-opted members on matters relating to the Councillors' Code of Conduct ensuring that this training is actively promoted, and that Councillors, are aware of the standards expected from local Councillors under the Code;
 - f. granting dispensations to Councillors and any co-opted members from requirements relating to interests set out in the Councillors' Code of Conduct;
 - g. undertaking the functions relating to standards of conduct of Councillors under any relevant provisions of, or regulations made under, the Local Government Act 2000; and
 - 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; and
 - i. the exercise of a. to h. above in relation to the town/parish councils wholly or mainly in its area and the members of those town/parish councils.
- 12 It is further recommended that the following paragraph be deleted from the Role and Function of the Standards Committee:-
- “consideration of payments or provisions of benefits under section 92 of the Local Government Act 2000 to persons who have been adversely affected by maladministration (whether the subject of a formal report by the Commission for Local Administration or not)”.
- 13 Section 92 of the Local Government Act 2000 creates an express power for local authorities to compensate or assist a person who has suffered as a result of the authority's own maladministration. However, the Modular Constitution only gives this function as an optional role for a Standards Committee and traditionally this Committee has not overseen complaints handling and ombudsman investigations. This has been overseen by Services Select Committee and it is therefore considered that this function would be better placed with such Committee or the Performance and Governance Committee.

Codes and Protocols

- 14 The Standards Committee have passed a number of Codes and Protocols and it is recommended that these be set out in the Constitution as follows:-

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- 15 “High standards lie at the root of the Council’s activities and the work of the Standards Committee is supported by:-
- (a) The Members’ Code of Conduct
 - (b) Procedure for Local Determination Hearings of Allegations of Member Misconduct
 - (c) Composition of Hearing Panel for Determination of Allegations of Member Misconduct
 - (d) Guidance on Applying an Appropriate Sanction
 - (e) Procedure and Process for Interviewing Independent and Parish/Town Council Representatives
 - (f) Protocol for Members on Gifts and Hospitality”
 - (g) Member’s Register of Interests
- 16 The Codes and Protocols would be set out in various Appendix to the Constitution.

Key Implications

Financial

It is not envisaged that there are any direct financial consequences associated with the proposed changes.

Legal, Human Rights etc.

Authorities are required by the Local Government Act 2000 to prepare and regularly update their constitution.

Resource (non-financial)

Efficiencies should result from the deletion of repetition within the Constitution in respect of matters concerning the Standards Committee and having all Codes and Protocols appertaining to Members grouped together within the Constitution.

Value For Money

The revised Constitution should provide a comprehensive, easy to understand and accessible single document.

Conclusions

The proposed changes should provide the Standards Committee with sufficient flexibility to meet the challenges posed by undertaking the filtering of local Member misconduct complaints. In addition the Committee’s roles and functions will be

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clearly defined and its Codes and Protocols easily identifiable for Members and Public alike.

Sources of Information:

The Constitution

The Modular Constitution

The Local Government Act 2000

The Local Government and Housing Act 1989

Contact Officer(s):

Christine Nuttall – ext. 7245

Corporate Resources Director

Dr. Pav Ramewal

RISK ASSESSMENT STATEMENT

Not to regularly review and update the Constitution may mean that the Constitution fails to meet the statutory requirements resulting in this Council acting *ultra vires*.