

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	STANDARDS COMMITTEE – NEW TERMS OF REFERENCE
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Date of Meeting:	17 December 2009
Directorate:	Borough Solicitor and Monitoring Officer
Ward(s)	All

1. Summary

The report is seeking the Committee's views on updated terms of reference for the committee to take into account best practice and to reflect legislative changes to the role and functions of the Standards Committee.

2. Recommendations

The Committee is requested to consider the proposed terms of reference and to make appropriate recommendations to the Constitutional Review Working Party ("CRWP").

3. Report Background

- 3.1 The Standards Committee terms of reference have not been substantially revised for some time, although a review did take place following the introduction of changes brought about by the Local Government Involvement in Health Act 2007.
- 3.2 A review of the Standards Committee's terms of reference of a number of well performing Councils has informed the proposed terms of reference attached as appendix 1 to this report.
- 3.3 Further, statutory guidance from the Standards Board of England, entitled Local Standards Framework, Guide for Authorities, supports Standards Committees being given "wider-reaching responsibilities" to "promote confidence in democracy". An extract from the guidance is attached as appendix 2 to this report.
- 3.4 Members will note that the Standards Board suggest that areas such as the protocol for members and authorities employee relations; complaints procedures and reports from the Local Ombudsman or external auditors; setting up the Independent Remuneration Panel; Commenting on Members allowance; Advising the Council on the Appointment of Independent Members are all included as the extra functions the Committee should have

within its terms of reference. These have not been included in the draft terms of reference appended to this report, but the Committee's views are sought on this.

- 3.5 Ultimately any change in the terms of reference will need constitutional changes and the mechanism the Council has set up to do this is through the CRWP, which will make recommendations to Full Council on any changes to the Constitution. It will ultimately be for Full Council to adopt any changes it deems appropriate.

4. Implications (including financial implications)

4.1 Resources and Risk

There are none- apart from, the resources needed to arrange training for members on any points arising.

4.2 Legal

These are contained within the body of the report.

4.3 Other Implications

By keeping abreast of Government responses to consultations such as these members will find it easier to perform their tasks on the various sub-committees, which are involved in the determination of any issues that may arise.

5. Background Papers

FJF Standards File

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STANDARDS COMMITTEE

APPENDIX 1

Terms of Reference

1. To promote and maintain high standards of conduct by the members and co-opted members of the Council.
2. To assist members and co-opted members to observe the Members' Code of Conduct.
3. To advise the Council on the adoption or revision of its Code of Conduct.
4. To monitor the operation and effectiveness of the Members' Code of Conduct.
5. To advise, train or arrange to train members and co-opted members on matters relating to the Members' Code of Conduct and other issues relating to standards and conduct
6. To assess and review complaints alleging breaches of the Code of Conduct by members and co-opted members.
7. To conduct determinations' hearings of complaints alleging breaches of the Code of Conduct.
8. To grant dispensations to members and co-opted members with prejudicial interests.
9. To exercise the same functions as described in 1-8 above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
10. To advise the Council on the adoption or revision of all protocols and/or guidance, insofar as these relate to Standards or ethical conduct issues.
11. To consider any matter referred to it by the Standards Board for England or the Monitoring Officer.
12. To provide an overview of the Council's policies with regard to standards of conduct and ethics and associated costs.
13. To determine applications for exemptions for politically restricted posts.
14. To exercise such other responsibilities as may be prescribed by law.
15. To undertake any action that improves, promotes, safeguards or facilitates the highest standard, of probity and ethical conduct by the Council its members and staff and those with whom it has, or who seek a contractual, financial or other relationship.

16. To establish sub-committees under relevant regulations in force for the discharge of functions prescribed by law and to determine, or make arrangements for determining the composition, membership and terms of reference of such sub-committees.
17. To monitor the registers of Members' interests as required by the statutory code of conduct, and to monitor the interests of any members of staff who, in accordance with any requirements upon them, are required to declare such interests to the Council.
18. To advise the Authority on good governance standards for public service, and on relevant performance indicators relating to corporate governance systems and processes.
19. To discharge as a full committee or a sub-committee the functions prescribed in relation to grants and supervision of exemptions from political restriction.
20. Responding to national reviews and consultations on governance related issues, in so far as they affect standards or ethical conduct issues.

Monitoring officers should be able to provide their standards committee with the training materials published by the Standards Board.

Monitoring the effectiveness of the Code of Conduct

Standards committees need to monitor how effectively members are adhering to the Code of Conduct, the type of complaints received and how quickly these complaints are dealt with. This will help identify where problems are and what should be included in future guidance and training. Monitoring officers may provide overview reports to the committee highlighting these issues.

Monitoring officers will also make quarterly and annual returns to the Standards Board for England on the operation of the Code in their authority and the standards framework locally.

The Standards Board consulted authorities to determine how they will tell us that the local arrangements are working. We have designed a monitoring system based on what standards committees need locally. The system enables authorities to provide information to the Standards Board as simply as possible. Authorities will be able to use the system locally for their own records, to keep standards committees informed of the authority's ethical activities.

Giving standards committees a wider role

The Local Government Act 2000 allows your authority to give the standards committee extra functions to give them a wider governance role. Some standards committees 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
- advising the council on the appointment of independent members

We believe 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.

Authorities should review their constitutions regularly, at least once every five years. A constitution should be a living document provided to members, available

functions of standards committees

to the public and staff, and placed on your website. You may want to consider making the standards committee responsible for ensuring the constitution is designed to reduce the opportunity for misconduct and to promote effective governance. This will also mean that processes are properly accountable to both members and the public, and that relations with outside organisations are properly managed.

A wider role for standards committees can also be valuable for the following reasons:

- a work programme prevents ethics slipping off the agenda
- periodic ethical audits highlight any systemic weaknesses
- standards committees provide a useful structure for learning from the experiences and cases in other authorities
- standards committees can provide support to relevant officers when faced with a highly politicised environment

Granting dispensations

Members can apply to their standards committee for a dispensation to allow them to attend meetings where they would otherwise be excluded because they have a prejudicial interest. This can happen when more than 50% of the council or a committee would be prevented from taking part in a meeting because of prejudicial interests, or when the political balance of the council or committee would be upset.

Dispensations must be applied for in writing individually, and not as a group or authority. If the standards committee approves the application, it must grant the dispensation in writing and before the meeting is held.

Only the standards committee can grant the dispensation and will do so at its discretion. Standards committees will need to balance public interests when granting dispensations. They will have to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of authority members. If a failure to grant a dispensation will result in an authority or committee not achieving the minimum number of members required for the group, this may be sufficient grounds for granting a dispensation.

However, paragraph 12(2) of the 2007 Model Code of Conduct enables members to represent their community and speak on issues important to the community and themselves, even when they have a prejudicial interest. This is to support members' roles as community advocates.

If members have a prejudicial interest, under paragraph 12(2), they will be able to make representations, answer questions or give evidence relating to that business. This is provided that members of the public are also allowed to attend the meeting for the same purpose.