
STANDARDS COMMITTEE - REVIEW OF THE COMMITTEE'S ARRANGEMENTS FOR THE DISCHARGE OF THEIR RESPONSIBILITIES

To: **Constitutional Review Working Party – 23 February 2009
Standards Committee – 5 March 2009**

By: **Miles Smith, Interim Head of Legal & Democratic Services**

Classification: **Unrestricted**

Summary: **To review the Standards Committee's arrangements for determining allegations that members have failed to comply with the Council's Code of Conduct.**

For Decision

1.0 Introduction and Background

- 1.1 At their meeting on 22 April 2008, the Standards Committee approved initial arrangements for the discharge of their new responsibilities for local determination from 1 May 2008.
- 1.2 At that time it was anticipated that these arrangements would need to be reviewed in the light of experience, further advice from the Standards Board for England and the development of good practice.
- 1.3 At their meeting on 2 December 2008 the Standards Committee considered the issues set out in this report and deferred further consideration pending consideration by the Constitutional Working Party.

2.0 Committee and Sub-Committee Structure

- 2.1 In addition to its responsibility for the promotion and development of the local ethical framework and oversight of the local determination arrangements, the Standards Committee now has very specific responsibilities in accordance with the statutory framework for the assessment, review of assessment, consideration following investigation and hearing of complaints. To undertake these responsibilities it has to make some use of sub-committees.
- 2.2 As the Working Party will recall, the statutory process has four stages: -
 - Stage One. Assessment
(Is there a case to answer?)
 - Stage Two. Review of Assessment
(Appeal by complainant against Stage One decision to take no action)
 - Stage Three. Consideration of Investigation Report
(Accepts investigation finding of no failure, or refers for full hearing)
 - Stage Four. Hearing
(Where the investigation has found a failure to comply)

2.3 The Committee's current arrangements provide for these steps to be dealt with as follows:

Stage One. Standards Referral & Hearings Sub-Committee

Stage Two. Standards Appeals Sub-Committee

(Stage One and Two must be delegated to sub-committees as different members must deal with assessment and review)

Stage Three. Full Standards Committee

Stage Four. Standards Referral & Hearings Sub-Committee

2.4 These arrangements are generally sound and have worked well. A possible change that the Committee have considered would be for Stage Three (Consideration of Investigation Report) to be dealt with by the Standards Referral & Hearings Sub-Committee, and ideally with the same membership that has dealt with the matter at Stage One, rather than by the full Committee. If this approach were to be adopted, the Sub-Committee could be re-named the Assessment and Consideration Sub-Committee to reflect this changed role.

2.5 The possible benefits of amending the sub-committee arrangements in this respect may include: -

- The full Standards Committee would deal with matters of policy, procedure, the promotion of the local ethical framework and oversight of these arrangements generally, but would not become involved in the determination of individual complaint issues.
- Step Three does not require the involvement of the full Committee and is arguably the step in the process where the least discretion is exercised.
- The use of the same sub-committee and members at Stage Three as at Stage One would take advantage of the Sub-Committee's knowledge and consideration from Stage One and involving them in the outcome of the investigation makes their continued role something of a learning opportunity.
- The use of a new sub-committee with new members at Stage Four allows members to come to the Hearing stage with wholly fresh minds and overcomes the difficulty, that it could be said to be unfair, that members may have known of the allegations and investigation for some months, but first hear the case for the subject member only very late in the day. This would overcome some concerns that have been expressed that the use of members who have already had some involvement at Stage Four may be open to challenge.

3.0 Corporate Implications

3.1 Financial

4.1.1 There are no direct financial implications at this point. However the continued development of the Standards Regime, and the number of complaints coming forward for consideration, need to be kept under review to ensure that financial and staffing resources are adequate.

3.2 Legal

3.2.1 The statutory background to these arrangements is set out in the Local Government Act, 2000 and the Standard Committee (England) Regulations, 2008. Both the Committee's current arrangements and these proposals would comply with the statutory requirements.

3.3 Corporate

4.3.1 These arrangements form part of the Council's overall framework for Corporate Governance. It is essential that the Council maintains robust arrangements to handle complaints locally and that these arrangements are understood by, and accessible to, all members of the community.

3.3 Equity and Equalities

4.4.1 The Council's governance agenda underpins the fundamental principles of equity and equality. The review and development of the Council's arrangements will increase accessibility and public confidence.

4.0 Recommendation

4.1 That the Constitutional Review Working Party consider and comment on the Standards Committee's current arrangements and these proposals prior to their further consideration by the Standards Committee.

5.0 Decision Making Process

5.1 Any change to the Standards Committee's sub-committee arrangements is a change to the Council's Constitution and will require the approval of the and Council.

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Background Papers

Arrangements for the Devolution of Responsibilities from the Standards Board for England. (Standards Committee, 6 March 2008) *not attached*