

Report to the Council

Committee: Standards Committee

Date: 29 July 2008

Chairman: Ms M Marshall

Item: 11

1. LOCAL ASSESSMENT OF ALLEGATIONS OF MISCONDUCT BY COUNCILLORS

Recommending:

(1) That the number of District Council members of the Standards Committee be increased to three and an appointment to the additional place be made by the Council;

(2) That the number of Parish/Town Council representatives be increased to three, with the present deputy becoming one of the members;

(3) That the revised Article 9 of the Council's Constitution attached as Appendix 1 to this report be approved; and

(3) That the terms of reference of the Assessments Sub-Committee and the Reviews Sub-Committee attached as Appendix 2 to this report be noted and included in the Council's Constitution.

1. Previously a complaint of misconduct by a member had to be submitted to the Standards Board for England (SBE), and the Referrals Unit of the SBE determined whether the allegation appeared to disclose a failure by a member to comply with the Authority's Code of Conduct and whether the allegation merited investigation. However, from 8 May 2008, all such complaints are now made to the Standards Committee with an expectation that each allegation will be assessed within 20 working days of receipt. In order to achieve this timescale and other timescales which have been prescribed it is necessary to establish Sub-Committees from members of the Standards Committee.
2. The new legislation requires the establishment of a Sub-Committee (the SBE has advised that this should be known as the "Assessments Sub-Committee") which will undertake the initial assessment and decide whether the complaint shows an apparent failure to comply with the Code of Conduct and, if so, whether that complaint merits investigation or other action.
3. If the Assessments Sub-Committee decides to take no action in respect of an allegation, the complainant then has 30 days within which to request to the Authority to review that decision. The legislation requires the setting up of a second Sub-Committee (the "Reviews Sub-Committee") to conduct that review.
4. No member can sit on the Reviews Sub-Committee in respect of a complaint if they have served on the Assessments Sub-Committee for the same complaint.

5. If the matter is then referred for investigation a hearing is held. The SBE has recommended that such hearings should be held before a Sub-Committee (a "Hearings Sub-Committee").
6. Whilst the legislation prohibits any member from sitting on both the Assessments and Reviews Sub-Committee on the same case, there is no similar statutory prohibition in respect of the Hearings Sub-Committee. In addition the SBE has advised that if a member has been involved in the case either at the Assessments Sub-Committee or the Reviews Sub-Committee stage, there is no reason why they should be precluded from serving on the Hearings Sub-Committee.
7. We have considered the composition of the required Sub-Committees taking account of the need for:
 - (a) at least 25% of each Sub-Committee to be independent members, one of whom must be present to chair the meeting;
 - (b) at least one elected member of the District Council to be present at each meeting; and
 - (c) at least one member to be a Parish or Town Council representative if the Sub-Committee is dealing with a complaint in respect of the conduct of a councillor in the capacity of a local council member.
8. In view of the need to call meetings of the Assessments Sub-Committee urgently to comply with the 20 working day time limit, we have determined that the membership of such Sub-Committees should be decided by the Monitoring Officer in consultation with the Chairman of the Standards Committee on an ad hoc basis. We consider this to be preferable to a fixed membership which could make it more difficult to convene a meeting quickly in the event of absence of a member for any reason. Any review of a decision by the Assessments Sub-Committee has to be conducted within three months of a request being made. Also a Hearings Sub-Committee has to be held within three months of receipt of the investigation report. We have acknowledged that there is more flexibility to arrange such meetings on a date to suit the available members but we have determined that the arrangements for appointing the Reviews and Hearings Sub-Committee meetings should be conducted in the same way as for the Assessments Sub-Committee.
9. In order to ensure that there are sufficient members on the Standards Committee to fulfil the different roles prescribed by the legislation it is necessary to increase the membership of the Committee.
10. Currently the Committee comprises three independent members, two District Councillors and one Parish/Town Council representative with one Parish/Town Council deputy.
11. We are recommending that the membership of the Committee be increased to three independent members, three District Councillors and three Parish/Town Council representatives. This will require the appointment of one additional District Councillor and two Parish/Town Council representatives. If the Council adopts our recommendations the Association of Local Councils (Essex Branch) will be asked to appoint the two additional Town/Parish Council representatives and we are suggesting that the present deputy becomes one of the members.

- ... 12. We recommend the adoption of a revised Article 9 of the Council's Constitution which reflects the new duties of the Committee. This is attached as Appendix 1 to this report.
- ... 13. We have also attached to this report as Appendix 2 the terms of reference of the Assessments Sub-Committee and the Reviews Sub-Committee which will need to be included in the Council's Constitution.
- 14. We recommend as set out at the commencement of this report.