



Executive Summary and Recommendations

Title of Report: Constitution and Terms of Reference of the
Standards Committee and Appointment of Sub-
Committees

Date: 26 February 2008 (General Purposes)
3 March 2008 (Standards)

Summary of this Report

- 1.1 This report advises the General Purposes Committee that as a result of a change to the functions of the Standards Committee there is a need to amend that Committee's Terms of Reference and Constitution.
- 1.2 In particular, the Standards Committee is required to appoint up to three Sub-Committees with terms of reference and constitution, as set out in Appendix B of the report.

Recommendations

General Purposes Committee

- (i) That the Council be recommended to approve the amended constitution and Terms of Reference of the Standards Committee, as set out in Appendix A, including increasing the number of Members to 12 (7 Majority party Members, 2 Minority party Members and 3 independent Members); such Members to be appointed by the Council at its meeting on 7 May 2008.

Standards Committee

- (i) That it be agreed in principle that three Sub-Committees be established with the Constitution and Terms of Reference as set out in Appendix B, with effect from the first meeting of the newly constituted Committee following 7 May 2008.



City of Westminster

Committee Report

Item No:	
Date:	26 February 2008 (General Purposes Committee) 3 March 2008 (Standards Committee)
Classification:	For General Release
Title of Report:	Constitution of the Standards Committee and Establishment of Sub-Committees
Report of:	The Director of Legal and Administrative Services
Wards involved:	None
Policy context:	High Ethical Standards
Financial summary:	There are no financial implications arising
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3. Background Information

3.1 The Standards Committee at its meeting on 1 November 2007 was advised that under the Local Government and Public Involvement in Health Act 2007 the functions of the Standards Committee will be amended in the following ways, once the relevant provisions have been brought into force:

- (a) Whereas currently all complaints about Members' conduct had previously been made to the Standards Board for England ("the SBE") in the first instance, the Act requires that complaints be made instead to the relevant local authority Standards Committee. The Standards Committee will therefore have the primary role in dealing with complaints about breaches of the Code of Conduct. Henceforth, the SBE will become the strategic regulator and only involve itself in the most serious complaints.
- (b)
 - (i) Once a complaint is received the Act requires that the Standards Committee must conduct a preliminary assessment of the allegations. The committee may either refer the allegations to the monitoring officer for investigation, or may refer the matter to the SBE, or may decide to take no further action; (this part of the procedure is known as "the local filter").
 - (ii) If the committee decides to take no further action it must write to the complainant giving reasons for its decision.
 - (iii) The complainant may then, within 30 days, seek a review of that decision, in which event the committee must look at the matter again.
 - (iv) The committee may, if regulations under the Local Government Act 2000 so provide, refer the case to the President of the Adjudication Panel for England if the committee considers the sanctions available to it are inadequate.
 - (v) The SBE may (in circumstances to be set out in regulations made by the Secretary of State) suspend the power of an individual Standards Committee to assess allegations of misconduct and may direct that any allegations referred to the suspended committee must be referred on to the Standards Committee of another authority or to the SBE.
 - (vi) The SBE may, where a complaint is referred to it, either refer the allegations to one of its ethical standards officers, or refer the matter back to the relevant Standards Committee, or decide that no further action should be taken.
 - (vii) Where it decides on the latter course it must write to the complainant giving reasons for its decision.

- (viii) Where a complaint is referred to a monitoring officer, he or she must investigate but regulations may provide for the monitoring officer to refer the matter back to the Standards Committee which referred it to him or her.

- 3.2 The SBE has advised that separate sub-committees of the Standards Committee should be formed to make decisions at the local filter and the review stages. This is because it would be inequitable for the same sub-committee that decided to take no further action to undertake a review of that decision. As to whether a separate sub-committee is required also to deal with a final hearing, the SBE is considering its position and advises, in the meantime, that the situation with hearings may not be quite the same since hearings arguably deal with issues different to those considered at the local filter and review stage. The SBE has yet to produce formal guidance on the point; this, they say, is likely to be forthcoming in the next month or so. If the Standards Committee decides to form sub-committees, it is important to note that the membership must be drawn from the members of the Standards Committee.
- 3.3 The SBE has undertaken pilot schemes. It expects that most local authorities will receive approximately six complaints per year and only one or two of those complaints are likely to be referred on for investigation. Despite the likelihood that the authority can expect to receive a modest number of complaints, a system should be put in place to deal with local filters and reviews and that in turn requires establishing up to three sub-committees (one for local filters, one for reviews and one for hearings). An alternative approach might be for the City Council to establish a joint committee with a neighbouring authority to undertake some or all of the new functions, eg for reviews. However, it is suggested that the City Council proceed for the time being on the basis that it will deal with those matters internally, and the possibility of establishing joint arrangements can be kept under review once the relevant Regulations are issued (eg if difficulty is experienced in recruiting sufficient Independent Members).
- 3.4 There are various issues that will determine the size and membership of a Standards Committee. For example, if the Standards Committee takes the view that it should reflect the political proportionality on the Council, each sub-committee would have four Members (three Council Members and one independent Member). In that event, the Standards Committee would have to increase in size from four to twelve Members. In these circumstances three Independent Members will be required.
- 3.5 In anticipation of the above changes the General Purposes Urgency Sub-Committee on 9 January 2008 agreed arrangements for the recruitment of additional independent members. This process is currently underway with interviews programmed for Tuesday 18 March, following which the General Purposes Urgency Sub-Committee will make a recommendation to the full Council meeting on 7 May 2008. For the Independent members to be appointed, under the current regulations, a majority of the members of the Council (ie 31 Members) must vote in favour.

- 3.6 It is proposed to establish three Sub-Committees of the Standards Committee each with a membership of four to carry out the functions outlined above. The Sub-Committees would have the following functions:

Standards Sub-Committee No: 1

Terms of Reference

- (i) To make a preliminary assessment of allegations of misconduct received and either:
 - (a) refer the matter to the Monitoring Officer for investigation.
 - (b) refer the matter to the Standards Board for England.
 - (c) decide that the allegation requires no further action.

Standards Sub-Committee No. 2

Terms of Reference

To conduct a review of a decision of the Standards Sub-Committee No 1 when it has decided that an allegation requires no further action and the complainant asks, within 30 days, for the allegation to be looked at again. In the event that the Sub-Committee decides, following a review, that further action is required to either:-

- (a) refer the matter to the Monitoring Officer for investigation;
- (b) refer the matter to the Standards Board for England.

Standards Sub-Committee No. 3

Terms of Reference

To conduct a hearing as a result of an investigation into allegations of misconduct by or on behalf of the Monitoring Officer which have been referred for investigation by Standards Sub-Committee No 1 or following a review by Standards Sub-Committee No. 2 and to reach a finding on such investigation and to impose such sanction as it sees fit, (if any) within the powers set out in legislation.

- 3.7 The Standards Committee is being asked to approve the Constitution and Terms of Reference of the Sub-Committees set out in Appendix B. It will be for the Standards Committee to formally appoint the membership; each Sub-Committee must have at least one independent member.

- 3.8 Current regulations require that where the Standards Committee has more than three members at least 25% of the Members appointed to Standards Committees are Independent members. A further restriction is that no more than one Member of the Executive (Cabinet) may be a member of the Standards Committee. The Local Government and Public Involvement in Health Act 2007 requires Standards Committees to be Chaired by an independent member. It is not yet known if this requirement will be extended to apply to Sub-Committees.
- 3.9 The legislation to bring these new provisions into force is not currently in place. Indeed, only recently, with a closing date of 15 February has the Government consulted on matters which it is likely to include in the regulations which are required to bring this legislation into force. It is likely that these regulations will be made in order that the new provisions can be brought into force from 1 April 2008, with a period in which local authorities must implement the provisions, this is normally three or six months.
- 3.10 As the relevant legislation is not actually in place, it is not proposed at this stage to make a recommendation to full Council to approve the Members who will form the membership of the enlarged Standards Committee. This will be done at the same time as a recommendation is made to full Council regarding the appointment of Independent Members, expected to be on 7 May 2008. Should the final regulations impact on the proposals set out in this report, a further report will be submitted.
- 3.11 In due course it will be necessary for a report, seeking approval to the procedures to be used at the various stages to be prepared. This will be done when the necessary legislation and the Standards Board for England guidance is in place.
- 3.12 Appendix A contains the updated terms of reference of the Standards Committee to cover these additional responsibilities described in this report. The additions are in paragraphs 13 and 14.
- 3.13 The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a member of a local authority if he or she holds a politically restricted post. Section 202 of the Local Government and Public Involvement in Health Act 2007 amends the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of Standards Committees. Whilst this provision is not currently in force the opportunity is taken, via this report to seek to amend the terms of reference of the Standards Committee by including this provision in paragraph 15 of the Standards Committee's terms of reference.

4. LEGAL IMPLICATIONS

- 4.1 The legal implications arising are dealt with in the main body of this report.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from this report.

6. OTHER IMPLICATIONS

- 6.1 There are no other implications arising from this report.

If you wish to inspect one of the background papers please contact Mick
Steward: 020 7641 3134; email: msteward@westminster.gov.uk

Background Documents

- Report to the General Purposes Urgency Sub-Committee – 9 January 2008

STANDARDS COMMITTEE

1. CONSTITUTION

Nine Members of the Council (cannot include the Leader or be Chaired by a Cabinet Member, maximum of 1 Cabinet Member)
Three Independent Members

2. TERMS OF REFERENCE

- (1) To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.
- (2) To advise the City Council on the adoption or revision of a Code of Conduct for Members.
- (3) Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.
- (4) To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members.
- (5) To monitor the operation of Code of Conduct for Members.
- (6) Consider reports referred to the Committee by ethical standards officers or the monitoring officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.
- (7) Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, members and others as required.
- (8) Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall have power to impose any sanction authorised by law).
- (9) Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken if any.
- (10) To the extent allowed by the Law, granting dispensations in relation to member and co-opted Member interests as referred to in the Members Code of Conduct.

- (11) To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.
- (12) To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority (i.e. not just in relation to Member conduct) and in this context to receive a report annually from the Director of Legal and Administrative Services, the Director of Finance, the Director of Procurement and the Director of Policy and Communications.
- (13) To appoint such Sub-Committees (including Membership thereto) to undertake the functions imposed by sections 184 and 185 of the Local Government and Public Involvement in Health Act 2007 and such other functions as the Committee may from time to time assign.
- (14) To be responsible for the functions and procedures relating to the functions for Standards Committee contained in sections 184 and 185 of the Local Government and Public Involvement in Health Act 2007.
- (15) To be responsible for the granting and supervision of exemptions of posts from the political restriction as set out in the Local Government Housing Act 1989.

Standards Sub-Committee No: 1

Membership

Up to 4 Members of the Standards Committee to be appointed by the Standards Committee to include at least one Independent Member.

Terms of Reference

- (i) To make a preliminary assessment of allegations of misconduct received and either:
 - (a) refer the matter to the Monitoring Officer for investigation;
 - (b) refer the matter to the Standards Board for England;
 - (c) decide that the allegation requires no further action.

Standards Sub-Committee No. 2

Membership

Up to 4 Members of the Standards Committee to be appointed by the Standards Committee to include at least one Independent Member.

To conduct a review of a decision of the Standards Sub-Committee No 1 when it has decided that an allegation requires no further action and the complainant asks, within 30 days, for the allegation to be looked at again. In the event that the Sub-Committee decides, following a review, that further action is required to either:-

- (a) refer the matter to the Monitoring Officer for investigation;
- (b) refer the matter to the Standards Board for England;

Standards Sub-Committee No. 3

Membership

Up to 4 Members of the Standards Committee to be appointed by the Standards Committee to include at least one Independent Member.

To conduct a hearing as a result of an investigation into allegations of misconduct by or on behalf of the Monitoring Officer which have been referred for investigation by Standards Sub-Committee No 1 or following a review by Standards Sub-Committee No. 2 and to reach a finding on such investigation and to impose such sanction as it sees fit, (if any) within the powers set out in legislation.