

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No 3

Audit & Standards Committee - 16 June 2008.

Revised Terms of Reference for the Audit & Standards Committee

Report of the Strategic Director of Performance and Development

Recommendation

That the Committee notes the new terms of reference

Introduction

1. The Local Government and Public Involvement in Health Act 2007 made a number of changes to the conduct regime for members and officers. The changes include the delegation of additional powers to local standards committees i.e.
 - Local assessment of complaints under the member code of conduct
 - Supervision of politically restricted posts

Assessment of complaints

2. The Government published new regulations governing the conduct of standards committees on 17th April 2008 which came into effect on 8 May 2008. The initial assessment of complaints (to decide if a complaint should be investigated) which was previously carried out by the national Standards Board has now become the responsibility of the local Standards Committee.

Supervision of politically restricted posts

3. 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. This section amends the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of the standards committee of each local authority in England, rather than that of the Independent Adjudicator. The section also provides that the Secretary of State may issue general advice with regard to the making of decisions on political restrictions. Before giving such general advice, the

Secretary of State must consult those representatives of local government he considers appropriate.

Membership of the Committee

4. The regulations governing the membership of a Standards Committee performing functions under the Member Code of Conduct requires that at least 25% of the membership is independent members. This requirement is currently met. The quorum under the regulations for a meeting of a standards committee or sub-committee is three members (including one independent member and one member of the authority). The regulations also require sub-committees set up for the purposes of assessment, review or hearings to be chaired by an independent member.
5. The Council on 13th May 2008 authorised the Strategic Director of Performance and Development to recruit a further two independent members to serve on the Committee. Currently arrangements are being made to advertise etc these appointments.
6. The appointment of independent members is governed by regulations and the Council would be required to confirm the appointment of any independent member before he/she could take office. The Council will review at later stage whether or not it is necessary to appoint any further elected members. The current approved membership of the Committee is therefore

Up to 4 Independent members (including the Chair); 1 Cabinet Member;
2 Conservative; 2 Labour and 1 Liberal Democrat Members

Access to Information Rules

7. The new regulations governing the conduct of standards committees have amended the access to information rules so that exempt categories 7A to 7C apply to the new responsibilities.

| | |
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| <i>The following additional categories apply only to a Committee or sub-committee exercising the functions of a Standards Committee under section 58(1)(c), 60(2) or (3), 64(2), 70(4) or (5) or 71(2) Local Government Act 2000 or considering any matter under Regulation 13 or 16 to 20 Standards Committee (England) Regulations 2008'</i> | |
| 7A. Information which is subject to any obligation of confidentiality | 7B. Information which relates in any way to matters concerning national security |
| 7C. The deliberations of a Standards Committee or sub-committee in reaching any finding on a matter referred | |

- 8 In addition the regulations provide that the public does not have a right of access to the meetings and papers of assessment and review sub-committees. A summary of the proceedings is required to be produced which is then made available for public inspection.

CONCLUSION

9. The revised terms of reference for the Committee and sub-committees dealing with code of conduct issues are attached as an Appendix.

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Strategic Director of
Performance and development

Shire Hall
Warwick

14 May 2008

APPENDIX

SECTION 7 RESPONSIBILITIES OF THE AUDIT AND STANDARDS COMMITTEE

The members of the Audit and Standards Committee, including the independent members shall be appointed by the Council. The Council shall appoint the Chair if it thinks fit. The Chair shall be one of the independent members. The Audit and Standards Committee shall have the following functions-

| Function | Statutory Reference |
|---|---|
| 1. Promoting and maintaining high standards of conduct by councillors, co-opted members and church parent governor representatives and officers | Section 54(1)(a) and 54(3) Local Government Act 2000 |
| 2. Assisting councillors, co-opted members and church and parent governor representatives to observe the members' Code of Conduct | Section 54(1)(b) Local Government Act 2000 |
| 3. Advising the Council on the adoption or revision of the Members' Code of Conduct | Section 54(2)(a) Local Government Act 2000 |
| 4. Monitoring the operation of the Members' Code of Conduct | Section 54(2)(b) Local Government Act 2000 |
| 5. Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct | Section 54(2)(c) Local Government Act 2000 |
| 6. Dealing with the assessment, review and determination of complaints under the Members' Code of Conduct relating to councillors, co-opted members and church and parent governor representatives. | Sections 57A–57C, 64, 66, 78, 79 and 80 Local Government Act 2000 |
| 7. Granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct | Section 81(5) Local Government Act 2000 |
| 8. Dealing with the grant and supervision of exemptions from political restriction. | Section 3A Local Government and Housing Act 1989 |

| Function | Statutory Reference |
|--|--|
| <p>9. Oversight of internal and external audit matters, the Councils arrangements for corporate governance and risk management and any other arrangements for the maintenance of probity including,</p> <ul style="list-style-type: none"> • approval of the internal audit strategy/plan • review of financial statements, the annual accounts, the statement of internal control, and any opinions/reports of external or internal audit or inspection agencies • assessing the effectiveness of the Council's control environment, risk management and corporate governance arrangements • seeking any required assurances to ensure appropriate action is taken and • monitoring performance in relation to any action required <p>and making recommendations to Cabinet and/or Council as appropriate where executive action is required</p> | <p>Section 54(3) Local Government Act 2000</p> |

Terms of Reference and Composition of Certain Sub-Committees

In relation to the assessment, review and determination of complaints under the Member Code of Conduct the following standing arrangements apply. These do not affect the powers of the Audit & Standards Committee to deal with any matter itself.

Hearings Sub-Committee

Composition: Any two or more elected members and an independent member drawn from the membership of the Audit & Standards Committee to sit as and when required. The independent member shall Chair the sub-committee. The selection of members to form a sub-committee to deal with a particular matter or matters shall be made by the Chief Executive. Where possible the make-up of the sub-committee shall include a representative of each of the political groups represented on the Council.

Terms of Reference

- To determine complaints relating to councillors, co-opted members, church and parent governor representatives following an investigation under the Member Code of Conduct
- To impose sanctions on individual councillors, co-opted members, church and parent-governor representatives where appropriate

- To refer individual cases to the Adjudication Panel for England in circumstances where it considers the sanctions available are insufficient
- To make recommendations and or refer matters to the monitoring officer for other action in appropriate cases

Assessment and Review Sub-Committee

Composition: Any two or more elected members and an independent member drawn from the membership of the Audit & Standards Committee to sit as and when required. Where possible the sub-committee will include representation from at least two of the political groups represented on the Council. The independent member shall Chair the sub-committee. The selection of members to form a sub-committee to deal with a particular matter or matters shall be made by the Chief Executive. A member who has dealt with the assessment of a particular complaint shall not be a member of any sub-committee carrying out a review of that complaint under section 57B Local Government Act 2000.

Terms of Reference

- To carry out assessments of complaints made under the Member Code of Conduct under section 57A Local Government Act 2000
- To carry out reviews of complaints made under the Member Code of Conduct under section 57B Local Government Act 2000

Access to Information

There is no right of public access to the meeting or the papers of an assessment or review sub-committee. There is a requirement to produce a summary which is then made available for public inspection. The requirements relating to the summary are governed by Regulation 8 (5) Standards Committee (England) Regulations 2008.