



Taunton Deane Borough Council

Corporate Governance Committee – 22 September 2014

Review of Standards Regime

Report of the Assistant Chief Executive

(This matter is the responsibility of Councillor Bryan Denington, Chairman of the Constitutional Sub-Committee.)

1. Executive Summary

The report set out proposals put forward by the Constitutional Sub-Committee with regard to the future composition and operation of the Standards Regime at the Council in the light of a request from the existing Standards Committee for arrangements to be reviewed with a view to operating in a way that would enable the Parish and independent Members to more fully participate in the process than they are able to do at present.

2. Background

The Council agreed to retain a Standards Committee to oversee the Standards Regime following the Localism Act 2011 and Appendix A to this report sets out the relevant extract of the Council's Constitution in this respect.

At its meeting held on 8 July 2014, the Standards Committee reviewed the processes by which it currently operated. During the debate there was much discussion and concern shared by all Members of the Committee that since the introduction of the Localism Act 2011, the Parish Councillors and Independent Members, who were now co-opted and had no right to vote, and therefore felt increasingly disenfranchised from the process.

In addition, reference was made to the fact that now that only Taunton Deane Borough Councillors had the right to vote there was a risk that the Committee could be perceived as operating in a "political" way when any Standards Regime needed to be perceived as being objective and be able to operate in an independent manner.

The Standards Committee therefore duly agreed to request that the Constitutional Sub-Committee review the current arrangements with a view to making recommendations that would enable the Parish and Independent Members to more fully participate in the process than they were able to do at present. The Committee considered that by enabling them to act on an equal basis would encourage greater engagement, demonstrate enhanced objectivity and dispel any perception of undue political influence on standards issues.

The Constitutional Sub-Committee duly considered this matter at its meeting held on 7 August 2014 and agreed to recommend that consideration be given to amending the Constitution in respect of the Standards Committee as follows:

- (i) to increase the Parish Council representatives from two to three;
- (ii) the selection process for such membership to be determined and implemented by the Monitoring Officer;
- (iii) Independent and Parish Members of the Committee be granted full voting rights alongside the five elected Members appointed by the Borough Council to serve on the Committee;
- (iv) the current requirement for all sub-committees to be chaired by an elected Member be amended so that such sub-committees can be chaired by any Committee Member.

It was acknowledged that in the event of these recommendations being adopted, the Standards Committee would need to become an Advisory Committee in order to comply with the requirements of local government legislation and thereby need to make recommendations to full Council.

The sub-committee were also cognizant of the financial pressures currently being experienced by the Council and therefore proposed that the reimbursement arrangements for members of the proposed Advisory Committee should remain as they were now to ensure that the proposal was cost neutral.

If the recommendations are adopted Appendix B sets out the amended Article 8 in regards to the Standards Advisory Committee, including track changes to set out the changes clearly.

The Committee is requested to consider the proposals of the Constitutional Sub-Committee as set out in this report and to make any appropriate recommendations to full council with or without amendments.

3. Finance Comments

As referred to above, the intention is for the proposal set out in the report to be cost neutral.

4. Legal Comments

If the recommendations are followed and the Committee becomes advisory then the Council would still comply with obligations placed on local authorities under the relevant legislation.

5. Links to Corporate Aims

There are no direct links to Corporate aims.

6. Environmental and Community Safety Implications

There are no direct Environmental and Community Safety Implications.

7. Equalities Impact

An Equalities Impact Assessment must be carried out if the report is in respect of:

- New initiatives/projects with an impact on staff, service or non-service users;
- New services/changes to the way services are delivered;
- New or refreshed Strategies;
- Events – Consultation/Training; and
- Financial/budget decisions.

There are no significant equalities impacts from this report. The recommendations, if adopted, should enhance the perception of objectivity of how the Standards Regime is operated at the Council.

8. Risk Management

There are no significant risk management issues arising from this report.

9. Partnership Implications

The recommendations, if implemented would not prejudice partnership working, particularly in regard to the Joint Management and Shared Services Project as West Somerset Council does already operate a Standards Advisory Committee.

10. Recommendations

That the Committee considers the proposals made by the Constitutional Sub-Committee and makes recommendations with or without amendments to Full Council, to come into effect after the May 2015 local elections.

Contact: Bruce Lang, Assistant Chief Executive
01984 635200
Email: bdlang@westsomerset.gov.uk

Article 8 The Standards Committee

8.1 Standards Committee

The Council will establish a Standards Committee.

8.2 Constitution

(a) Membership

The Standards Committee will be comprised of:

- (i) Five (5) elected members from each of the political groups who are represented on the Council;
- (ii) Three (3) independent co-opted members who are not Councillors or officers of the Council or of any County, District or Unitary Council or of any Parish Council within Taunton Deane.
(These are referred to as "Independent co-opted members");
- (iii) (Subject to the same exceptions as (ii) above) two (2) members of a parish council from within the Borough of Taunton Deane who shall represent the interests of all such Parish Councils (the Parish Members);
- (iv) Members of the Standards Committee will hold office from one Annual Meeting until the next - at which point their appointments shall be either renewed or terminated at Annual Council.

(b) Independent co-opted members

Independent co-opted members (see 8.2(a) (ii) above):-

- (i) Shall be selected in accordance following a recruitment and selection process;
- (ii) Will not be entitled to vote at meetings of the Committee or on any sub-committees to which they have been appointed. Their role is an advisory one.

(c) Parish Members

A Parish Member must be present at any meeting of the Standards Committee when matters relating to Parish Councils or their members are being considered. Parish members will not be voting members of the Committee and their role is an advisory.

(d) Independent Person

The Independent Person is a person who is appointed following a recruitment and selection process and carries out the following functions:-

- (i) They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the code of conduct or decides on action to be taken in respect of that members (this means on a decision to take no actions where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- (ii) They may be consulted by the authority in respect of a standards complaint at any other stage; any
- (iii) They **MAY** be consulted by a member or co-opted member of the Borough Council or a Parish Council against whom a complaint has been made.

(e) Chairing the Committee

The Committee shall be chaired by an elected member.

(f) Sub-Committees

The Standards Committee shall be entitled to appoint sub-committees or hearing panels to assess complaints received against members where allegations are made that a member has failed to comply with the code of conduct; where this happens the following limits will apply:-

- (i) The quorum (that is, minimum size at which business may be transacted) shall be three;
- (ii) All sub-committees shall be chaired by an elected member.
- (iii) All sub-committees must include at least three voting members.
- (iv) Sub-committees may include at least one co-opted independent member;
- (v) Where a Parish Councillor is the subject of a complaint then a Parish Member (unless s/he is the subject of that investigation) shall be appointed to that sub-committee.

The Standards Committee may appoint a sub-committee to determine any application for a dispensation should time be of the essence in the application (however there must be compliance with the statutory time limits on notification of meetings).

Any sub-committee set up to determine dispensations shall adhere to the limits as set out in (f) above.

8.3 Role and Function

The Standards Committee will have the following roles and functions in relation to the Borough Council and Parish Councils within Taunton Deane.

- (a) Promoting and maintain high standards of conduct by Councillors and Co-opted members;
- (b) Assisting Councillors and Co-opted members to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and any co-opted members on matters relating to interests set out in the Members' Code of Conduct and wider propriety issues including issuing guidance where appropriate.
- (f) Granting dispensations to Councillors and any co-opted members from requirements relating to interests set out in the Members' Code of Conduct or delegating such power to a sub-committee. Who will be authorised to determine such dispensations based on principles agreed by the Committee.
- (g) Deal with the assessment and determination of complaints under the Members' Code of Conduct relating to Members, Co-opted and Parish Members (other than the power to deal with such matters has been delegated to and exercised by the Monitoring Officer). Where the investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, then a Hearing Panel of the Committee (comprising three voting members of the Standards Committee agreed by the Monitoring Officer in consultation with the Committee Chairman) will consider and decide the complaint.
- (h) Take decisions in respect of a Member and Co-opted Members who is found on hearing to have failed to comply with the Code of Conduct, including:-
 - Reporting its findings to Council [or to the Parish Council] for information;
 - Recommending to the member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Leader of the Council that the member be removed from the Executive Committee or removed from particular Portfolio responsibilities should the complaint refer to a Portfolio holder;
 - Instructing the Monitoring Officer to [or recommend to the Parish Council] arrange training for the member.

- Removing [or recommend to the Parish Council that the member be removed] from all outside appointed or nominated by the authority [or by the Parish Council];
 - Withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
 - Restricting contact to named officers or requiring contact through named officers; or
 - Excluding [or recommend that the Parish Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms for necessary for attending Council, Committee and Sub-Committee meetings.
- (i) Advise on the management of statutory and other registers of Interest and gifts/hospitality received;
- (j) Advise the Council on possible changes to the Constitution (except the Council and Executive Schemes of Delegation) in relation the key documents and protocols dealing with members conduct and ethical stanadrds;

Article 8 The Standards Advisory Committee

1.1 Standards Advisory Committee

The Council will establish a Standards Advisory Committee.

1.2 Constitution

(a) Membership

The Standards Advisory Committee will be comprised of:

- (i) five (5) elected members from each of the political groups who are represented on the Council;
- (ii) three (3) independent members who are not councillors or officers of the Council or of any County, District or Unitary Council or of any Parish Council within Taunton Deane (these are referred to as "Independent members");
- (iii) three (3) members of a parish council from within the Borough of Taunton Deane who shall represent the interests of all such Parish Councils (the Parish Members);
- (iv) the five elected members of the Standards Advisory Committee will hold office from one Annual Meeting until the next - at which point their appointments shall be either renewed or terminated at Annual Council.

(b) Independent members

Independent members (see 8.2(a)(ii) above)

shall be selected in accordance following a recruitment and selection process and will be entitled to vote.

(c) Parish Members

A Parish Member must be present at any meeting of the Standards Advisory Committee when matters relating to Parish Councils or their members are being considered and will be entitled to vote.

(d) Independent Person

The Independent Person is a person who is appointed following a recruitment and selection process and carries out the following functions:-

- (i) they **must** be consulted by the authority before it makes a finding as to whether a member has failed to comply with the code of conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where

the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

- (ii) they **may** be consulted by the authority in respect of a standards complaint at any other stage; and
- (iii) they **may** be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

(e) **Chairing the Committee**

The Committee shall be chaired by an elected member.

(f) **Sub-committees**

The Standards Advisory Committee shall be entitled to appoint sub-committees or Hearings Panels to assess complaints received against members where allegations are made that a member has failed to comply with the code of conduct; where this happens the following limits will apply:-

- (i) the quorum (that is, minimum size at which business may be transacted) shall be 3;
 - (ii) All sub-committees shall be chaired by a Committee Member;
 - (iii) All sub-committees must include at least 3 voting members
 - (iii) Sub-committees must include at least one independent member;
 - (iv) where a Parish Councillor is the subject of a complaint then a Parish Member (unless s/he is the subject of that investigation) shall be appointed to that sub-committee.
- (g) The Standards Advisory Committee may appoint a sub-committee to make recommendations on any application for a dispensation should time be of the essence in the application (however there must be compliance with the statutory time limits on notification of meetings).
- (h) Any sub-committee set up to make recommendations on any application for dispensations shall adhere to the limits as set out in (f) above.

1.3 Role and Function

The Standards Advisory Committee will have the following roles and functions in relation to the Borough Council and Parish Councils within Taunton Deane and will make recommendations to the Council on:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and any co-opted members on matters relating to the Members' Code of Conduct and wider propriety issues including issuing guidance where appropriate;
- (f) granting dispensations to councillors and any co-opted members from requirements relating to interests set out in the Members' Code of Conduct or delegating such power to a sub-committee. who will be authorised to make recommendations in regard to applications for such dispensations based on principles agreed by the Committee:
- (g) deal with the assessment and determination of complaints under the Members' Code of Conduct relating to Members, Co-opted and Parish Members (other than where the power to deal with such matters has been delegated to and exercised by the Monitoring Officer). Where the investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, then a Hearing Panel of the Committee (comprising 3 voting members of the Standards Advisory Committee agreed by the Monitoring Officer in consultation with the Committee Chairman) will consider and make recommendations on the complaint.
- (h) make recommendations in respect of a Member and Co-opted Member who is found on hearing to have failed to comply with the Code of Conduct, including –
 - Reporting its findings to Council [or to the Parish Council] for information;
 - Recommending to the member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Leader of the Council that the member be removed from the Executive Committee, or removed from

APPENDIX B

particular Portfolio responsibilities should the complaint refer to a Portfolio holder;

- Instructing the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
 - Removing [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];
 - Withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
 - Restricting contact to named officers or requiring contact be through named officers; or
 - Excluding [or recommend that the Parish Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (i) advise on the management of statutory and other registers of interest and gifts / hospitality received;
- (j) advise the Council on possible changes to the Constitution (except the Council and Executive Schemes of Delegation) in relation the key documents and protocols dealing with members conduct and ethical standards;