

Agenda Item No:

Report to: Standards Committee

Date of Meeting: 5 June

Report Title: THE ROLE AND MAKE-UP OF STANDARDS COMMITTEE

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Purpose of Report

The Standards Board for England has issued guidance on the Standards Committee (England) Regulations 2008 and these are brought to Committee for information and noting. In order to give effect to the Guidance, some recommendations to Council are suggested.

Recommendation(s)

1. That Committees notes the Standards Board Guidance.
2. That Committee recommends amendment to the terms of reference of the Committee to include the functions set out in paragraphs 3 and 12 of the report.

Reasons for Recommendations

Standards Committees are required to have regard to Standards Board Guidance by the Local Government Act 2000.

Background

The Role and Make-up of Standards Committees

Introduction

1. The Standards Board for England (SBE) has issued guidance on the Standards Board (England) Regulations 2008. The Regulations have the operation of law. The Guidance must be taken into account by the authority in the operation of its

Standards Committee. The Guidance is a useful reference tool and it is attached at Appendix A.

Functions of Standards Committees

2. The main role of the Committee is to promote and maintain high standards of conduct throughout its authority, to create a sense of "ethical well-being" in the authority. The SBE sees that this presents an opportunity for the authority to act as an example to other bodies it works with and to the community at large.
3. The functions of the Committee are set out as follows in the Guidance;

Main Functions

to promote and maintain high standards of conduct for members

to help members to follow the Code of Conduct

Specific Functions

to give the Council advice on adopting the Local Code

to monitor the effectiveness of the Code

to train members on the Code, or arrange for such training

to assess and review complaints about members

to conduct determinations' hearings

to grant dispensations to members with prejudicial interests

to grant exemptions for politically restricted posts.

4. The Guidance suggests that these are set out in the Constitution as the Committee's terms of reference. This would have to be agreed by Council as an amendment to the Constitution. Any change in the terms of reference has to be sent to the SBE.

5. The Guidance makes reference to the potential overlap for Audit and Standards Committee and the need for clarity about the different roles of the two Committees. Audit Committee's terms of reference have been reviewed and it is now a committee of Council rather than a Cabinet Committee with greater influence on financial matters. Some authorities exercise these functions through their Standards Committees. There are some cross-over areas. For example, Audit Committee will report to Council on a number of matters including any incidence of related third party transactions.



6. The Guidance encourages Standards Committees to take on a wider role and sees this as a positive step in promoting confidence in local democracy. It is also seen as making the work of the Committee more interesting.

7. The SBE states that authorities should review their constitutions regularly, at least once every 5 years. In recent years, the Council has had at least an annual review of its Constitution. In some years, Council has had 2 such reports. The review process is that the Borough Solicitor and Monitoring Officer takes a report through the Working Arrangements Group, which then recommends any necessary changes to Council. The Working Arrangements Group is a cross party member and officer group. The Guidance suggests that authorities may wish to consider making the Standards Committee responsible for ensuring the Constitution is designed to reduce the opportunity for misconduct and promote effective governance. It may be that it would be appropriate to bring a comprehensive review through Standards Committee to view the Constitution from the ethical standpoint. An alternative might be to include the independent members of Standards Committee on Working Arrangements Group so that there is this input.

8. The Guidance gives examples of extra functions for Standards Committees:-

dealing with the protocol for members and authority employees' relations. This is already one of this Committee's functions, as well as the Planning Protocol.

receiving reports on complaints procedures and /or reports from the Local Government Ombudsman or external auditors.

setting up the independent remuneration panel. This is currently set up by the Chief Executive under delegated authority from the Council.

commenting on recommendations on members' allowances.

advising the Council on the appointment of independent members.

Committee is requested to consider whether they would wish Council to agree wider terms of reference.

Size and Composition

9. There have to be at least 3 members on Standards Committee, one of whom has to be an independent member, who chairs the Committee. At least 25% of the membership of Standards Committee must be independent. Only one member of the Executive can be a member of Standards Committee but cannot include an elected mayor or leader.



10. The SBE recommends a membership of at least 6 members in order that the Committee will be able to conduct the local assessment and review of complaints.

Independent Members

11. The SBE devotes 5 pages of its guidance to the role of the independent member as part of the ethical framework. The independent member is seen to be important in increasing public confidence in local government and gives a clear signal that the Standards Committee acts fairly and impartially.

12. There is no limit on the number of independent members and some authorities prefer to have a majority independent membership. There are, however, some difficulties of recruitment particularly as the rules on qualification can eliminate a large number of persons, including a relative or close friend of a member or employee of the authority. The Guidance gives general advice on recruitment of independent members and recommends that recruitment is delegated by Council to Standards Committee and the terms of reference should include this function. The Guidance recommends that a sub-committee of Standards Committee, with the assistance of the Monitoring Officer and a human resources officer, makes the recommendation to Council to appoint the independent member.

13. The Guidance advises on ways of attracting independent members, including approaching independent members of other authorities, who may serve on the Standards Committee of more than one authority, provided that they are not otherwise disqualified. The ability to appoint an independent member from another authority is discussed in another report on the agenda for this meeting, in order to address the difficulty of the absence of sufficient independent members to deal with a particular complaint assessment or review of an assessment.

Other Members

14. The membership of Standards Committee is restricted to one member of the Executive. It is not essential that there is an Executive member but the inclusion of an Executive member tends to suggest respect for the Committee and for all it represents.

15. Standards Committee does not have to be politically balanced though this Council has decided that it is. Political balance was not considered essential since this is intended to be a party politics free area of the Council. This is well understood in this authority. The Guidance suggests that members are reminded of this when the Committee is appointed and the need for appointments supported across the political groups regardless of party affiliation. This authority has adopted the SBE guidance that there be no substitutes on Standards Committee, thereby reflecting the political impartiality of the Committee.



Supporting Standards Committees

16. The Monitoring Officer is the primary officer support to the Standards Committee and forms the link between the Committee and members of the Council. The Monitoring Officer should have the necessary knowledge, skills and experience to do this. In this authority, as in many others, the Monitoring Officer is the most senior legal professional employed by the authority.

17. Under the Local Government Act 2000, the Monitoring Officer has been the link between the Standards Board and the authority for the purpose of the investigation of complaints. The role of the Monitoring Officer has broadened further with the introduction of the local assessment of allegations of breach of the Code of Conduct.

18. The Monitoring Officer also arranges training for members of Committee and members generally on the operation of the Code. The Code itself requires that members have regard to the advice of the Monitoring Officer when the advice is given as part of the Monitoring Officer's statutory duties.

Operation of Standards Committees

19. This part of the Guidance enlarges on the section on the size and composition of Standards Committee.

20. The Committee must appoint sub-committees to consider respectively the assessment and assessment review of allegations of breach of the Code. It may appoint a sub-committee to undertake the full hearing of the complaint. In the report on the local assessment of complaints elsewhere on this agenda, it is recommended that two sub-committees are appointed. It is suggested that full Committee conducts hearings on the determination on a complaint.

21. The Assessment and Review Sub-Committees must consist of a minimum of 3 members, one of whom is an independent chair, another has to be an elected member of the authority. The review stage cannot include members who were involved in the original assessment.

22. The usual rules on notice of meetings and access to information apply to Standards Committee but meetings of the assessment and review sub-committees are closed to the public and are not subject to these rules.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected



Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes

Supporting Documents

Appendix A - the Role and Make-up of Standards Committees - Standards Board for England Guidance.

Officer to Contact

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Please note that Appendix A cannot be published on the website. A hard copy may be obtained from Elaine Wood, Principal Committee Administrator, tel. no. 01424 451717 or email ewood@hastings.gov.uk.

