

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

STANDARDS SUB-COMMITTEES

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| Responsible Portfolio Holder | Councillor Geoff Denaro |
| Responsible Head of Service | Claire Felton, Head of Legal, Equalities & Democratic Services |

1. SUMMARY

- 1.1 The Standards Committee is requested to consider revising the constitution of its sub-committees in the light of its previous request to the Monitoring Officer to develop a scheme for determining how substitutes are selected.

2. RECOMMENDATION

- 2.1 That the Committee agrees to restructure its sub-committees with immediate effect by creating the following:

- Assessment (District Councillor Complaints) Sub-Committee A (3 members)
- Review (District Councillor Complaints) Sub-Committee A (3 members)
- Assessment (District Councillor Complaints) Sub-Committee B (3 members)
- Review (District Councillor Complaints) Sub-Committee B (3 members)
- Assessment (Parish Councillor Complaints) Sub-Committee A (3 members)
- Review (Parish Councillor Complaints) Sub-Committee A (3 members)
- Assessment (Parish Councillor Complaints) Sub-Committee B (3 members)
- Review (Parish Councillor Complaints) Sub-Committee B (3 members)

as illustrated in Appendix 1.

- 2.2 Sub-committees A and B are to sit in strict rotation.

- 2.3 Substitutes to be permitted as follows:

- 2.3.1 If an Independent Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she should be responsible for requesting another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the Independent Member is unable to sit on an assessment sub-committee the substitute cannot be a member of the Standards

Committee who would sit on the relevant review sub-committee; secondly that if the Independent Member is due to chair the meeting, the substitute must be another Independent Member. If no other Independent Member is able to substitute but an Independent Member is required then officers will arrange for an Independent member from a neighbouring authority to sit.

- 2.3.2 If an elected Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she is responsible for arranging for a substitute to take his or her place. In the first instance the elected Member should seek to find another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the elected member cannot sit on an assessment (District Councillor Complaints) Sub-Committee the substitute cannot be the elected Member who would sit on the relevant Review Sub-Committee; and secondly, that the elected member must bear in mind the requirement for there to be at least 1 elected Member on each Sub-Committee. If no member of the Standards Committee is able to substitute for the elected Member, the Member will be provided with a list of all elected Members who are not members of the Standards Committee but who have been trained in Standards Committee business and must select the substitute from that list.
- 2.3.3 If a Parish Representative is unable to attend a sub-committee meeting which they are scheduled to attend he or she should arrange for the Deputy Parish Representative to attend in their place.
- 2.4 No substitutes be permitted on the parent Standards Committee.
- 2.5 Consideration meetings and Final Determination Hearings will be considered by the full Standards Committee.

3. BACKGROUND

- 3.1 At its meeting on 20 May 2009 the Standards Committee reviewed its composition and the composition of its sub-committees and decided that for the time being no restructuring was required. However, the Committee did request the Monitoring Officer to develop a scheme for the selection of trained substitutes for the sub-committees which was transparent and fair. Officers have been unable to develop a policy for appointing a trained substitute to a sub-committee which meets these requirements, which is suited to the current composition of the sub-committees and which is legally compliant. For this reason the Committee is requested to reconsider the constitution of the sub-committees.
- 3.2 It is proposed that the sub-committees have fixed membership to ensure a system whereby:

- Members of the Standards Committee have equal and fair participation in sub-committees in accordance with procedures determined by the Committee;
- A clear process for selection of substitutes exists; and
- Officers do not exercise any discretion in the composition of members of sub-committees.

3.3 It is suggested that the following sub-committees could be created:

- 3.3.1 Assessment (District Councillor Complaints) Sub-Committee A
- 3.3.2 Review (District Councillor Complaints) Sub-Committee A
- 3.3.3 Assessment (District Councillor Complaints) Sub-Committee B
- 3.3.4 Review (District Councillor Complaints) Sub-Committee B
- 3.3.5 Assessment (Parish Councillor Complaints) Sub-Committee A
- 3.3.6 Review (Parish Councillor Complaints) Sub-Committee A
- 3.3.7 Assessment (Parish Councillor Complaints) Sub-Committee B
- 3.3.8 Review (Parish Councillor Complaints) Sub-Committee B

An illustration of how this would operate in practice with the current composition of the Standards Committee is at Appendix 1.

3.4 Sub-Committees A and B (whether assessment or review subcommittees) would sit strictly in rotation.

3.5 In relation to substitutes:

3.5.1 If an Independent Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she should be responsible for requesting another Independent Member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the Independent Member is unable to sit on an assessment sub-committee the substitute cannot be a member of the Standards Committee who would sit on the relevant review sub-committee (as members who have assessed a complaint cannot subsequently review that assessment decision); secondly that if the Independent Member is due to chair the meeting, the substitute must be another Independent Member. If no other Independent Member is able to substitute but an Independent Member is required then officers will arrange for an Independent member from a neighbouring authority to sit.

3.5.2 If an elected Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she is responsible for arranging for a substitute to take his or her place. In the first instance the elected Member should seek to find another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly if the elected member cannot sit on an Assessment (District Councillor Complaints) Sub-Committee the substitute cannot be the elected Member who would sit on the relevant Review Sub-Committee (as members who have assessed a

complaint cannot subsequently review that assessment decision); and secondly, that the elected Member must bear in mind the requirement for there to be at least 1 elected Member on each Sub-Committee, which might in some cases preclude requesting a Parish Representative or Independent Member from acting as substitute. If no member of the Standards Committee is able to substitute for the elected Member, the Member will be provided with a list of all elected Members who are not members of the Standards Committee but who have been trained in Standards Committee business and must select the substitute from that list.

3.5.3 If a Parish Representative is unable to attend a sub-committee meeting which they are scheduled to attend he or she should arrange for the Deputy Parish Representative to attend in their place.

3.6 It is proposed that no substitutes should be permitted on the parent Standards Committee.

3.7 It is proposed that consideration hearings and final determinations would be considered by the whole Standards Committee.

3.8 Members are requested to consider this proposal and, if approved, to implement it with immediate effect.

4. FINANCIAL IMPLICATIONS

4.1 None

5. LEGAL IMPLICATIONS

5.1 Section 102 of the Local Government Act 1972 as amended gives local authorities the power to appoint committees, and to committees to appoint sub-committees.

5.2 The requirement for political balance in section 15 of the Local Government and Housing Act 1989 does not apply to standards committees or their sub-committees.

5.3 The Standards Committee (England) Regulations 2008 set out the statutory requirements for the composition of standards committees and their sub-committees. These provide:

- Sub-committees discharging functions relating to complaints against councillors must be chaired by an independent member;
- At least 3 members of the sub-committee must be present;
- At least 1 elected member of the District Council must be present at each sub-committee meeting;

- At least 1 parish representative must be present when a sub-committee is considering a complaint relating to a member of a parish council;

5.4 The laws of natural justice preclude a member of the Standards Committee who participated in the assessment of a complaint from subsequently reviewing that decision.

6. **COUNCIL OBJECTIVES**

6.1 N/a

7. **RISK MANAGEMENT**

No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 2
Key Objective: Effective ethical governance

8. **CUSTOMER IMPLICATIONS**

8.1 No impact on customers is anticipated.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 The proposal ensures all members of the Standards Committee equal and fair participation in the business of the Standards Committee.

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 N/a

11. **OTHER IMPLICATIONS**

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| Procurement Issues | None |
| Personnel Implications | None |
| Governance/Performance Management | None |
| Community Safety including Section 17 of Crime and Disorder Act 1998 | None |
| Policy | None |
| Environmental | None |

12. OTHERS CONSULTED ON THE REPORT

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|---|------------------|
| Portfolio Holder | Yes |
| Chief Executive | Yes |
| Executive Director - Partnerships and Projects | <u>No</u> |
| Executive Director - Services | <u>No</u> |
| Assistant Chief Executive | <u>No</u> |
| Head of Service | Yes |
| Head of Financial Services | <u>No</u> |
| Head of Legal, Equalities & Democratic Services | Yes |
| Head of Organisational Development & HR | <u>No</u> |
| Corporate Procurement Team | <u>No</u> |

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 Illustration of proposed sub-committee structure

15. BACKGROUND PAPERS

None

CONTACT OFFICER

Name: Claire Felton
E Mail: c.felton@bromsgrove.gov.uk
Tel: (01527) 881429

APPENDIX 1

Current Composition of the Standards Committee:

- 3 Elected District Councillors
 - DC1
 - DC2
 - DC3

- 3 Independent Members
 - IM1
 - IM2
 - IM3

- 2 Parish Representatives
 - PR1
 - PR2

Proposed Sub-Committees:

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|---|---|
| <p>Assessment (District Councillor Complaints) Sub-Committee A</p> <ul style="list-style-type: none"> • IM1 • DC1 • DC2 | <p>Review (District Councillor Complaints) Sub-Committee A</p> <ul style="list-style-type: none"> • IM2 • IM3 • DC3 |
| <p>Assessment (District Councillor) Complaints Sub-Committee B</p> <ul style="list-style-type: none"> • IM2 • IM3 • DC3 | <p>Review (District Councillor) Complaints Sub-Committee B</p> <ul style="list-style-type: none"> • IM1 • DC1 • DC2 |
| <p>Assessment (Parish Councillor Complaints) Sub-Committee A</p> <ul style="list-style-type: none"> • IM1 • DC1 • PR1 | <p>Review (Parish Councillor Complaints) Sub-Committee A</p> <ul style="list-style-type: none"> • IM3 • DC3 • PR2 |
| <p>Assessment (Parish Councillor Complaints) Sub-Committee B</p> <ul style="list-style-type: none"> • IM2 • DC2 • PR2 | <p>Review (Parish Councillor Complaints) Sub-Committee B</p> <ul style="list-style-type: none"> • IM1 • DC1 • PR1 |