

**Standards Committee**  
**Thursday 2 February 2023**  
**10.00 am Luttrell Room - County Hall,**  
**Taunton**



**SUPPLEMENT TO THE AGENDA**

To: The Members of the Standards Committee

We are now able to enclose the following information which was unavailable when the agenda was published:

Item 9	Standards Committee and Hearing Panel Terms of Reference (Pages 3 - 16)
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Somerset County Council  
Standards Committee  
02 February 2023

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## **Standards Committee and Hearing Panel Terms of Reference**

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### **1. Summary**

- 1.1.** The Localism Act 2011 imposes a duty on local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority, to adopt a code of conduct governing the behaviour of members of the local authority while in office, to make arrangements to investigate and make decisions on allegations that the code of conduct has been breached, and to appoint one or more independent persons (Independent Persons) whose views must be sought and taken into account when deciding on breaches of the code of conduct.
- 1.2.** The Standards Committee and the Standards Hearing Panel are a fundamental element of the Council's framework for managing standards of member conduct and allow the Council to maintain effective oversight of the arrangements put in place and their terms of reference form part of the Council's constitution.
- 1.3.** A review of the Council's constitution has been undertaken by the Governance workstream within the Local Government Reorganisation project to ensure that the arrangements in place are appropriate for the unitary local authority. The review has included the terms of reference for the Standards Committee and the Standards Hearing Panel and draft versions of each are presented for the Standards Committee's consideration.

### **2. Issues for consideration / Recommendations**

- 2.1.** That the Standards Committee:
  - notes the proposed draft terms of reference for the Standards Committee and the Standards Hearing Panel and recommends to the Council that they should be adopted by the Council with effect from 1<sup>st</sup> April 2023; and
  - delegates to the Monitoring Officer the authority to make further minor amendments to draft terms of reference before their submission to the Council for adoption as required.

### **3. Background**

- 3.1.** The Council has established a Standards Committee and a Code of Conduct Hearings Panel. The role of the standards committee is to supervise all of the council's arrangements for maintaining and enforcing standards of Member conduct, while the Code of Conduct Hearings Panel deals with the assessment, review and determination of complaints under the Members' code of conduct against Members and co-opted Members where referred by the Monitoring Officer in accordance with the Council's arrangements for the investigation of complaints about Members' conduct.
- 3.2.** The draft terms of reference which are the subject of this report differ from the Council's current arrangements in key aspects which are discussed further below.
- 3.3.** On 1<sup>st</sup> April 2023 (the date of vesting of the district council functions in the Council) the Council will become responsible for the investigation and determination of complaints in relation to the conduct of members of parish councils (in their capacity as such) in Somerset. The scope of the Standards Committee's responsibilities has been widened to include a remit to advise parish councils in Somerset on the induction and training of their members and to assess and / or refer for investigation allegations of misconduct on the part of members of parish councils in Somerset.
- 3.4.** To promote and maintain a strong link between the Standards Committee and the parish councils it is proposed that 3 of the Committee's 5 co-opted members representing the community should be members of a parish council in Somerset.
- 3.5.** While the Council's Independent Persons are not members of the Standards Committee the committee may require them to attend its meetings and to make reports to it.
- 3.6.** The Council's present terms of reference for its Code of Conduct Hearings Panel provide that it should be constituted of the Leader of the Council, the leader of the largest opposition group, and one other Member from the Council's opposition groups. This arrangement presents difficulties for the effective administration of the Council's standards arrangements.
  - First, while the Standards Committee is responsible for supervising arrangements for the investigation and determination of complaints about Members' conduct, its members do not have the opportunity to see at first-hand how the arrangements operate. This removes a valuable source of reference from the Standards Committee and so undermines its effectiveness.
  - Second, the Code of Conduct Hearings Panel has limited powers to impose direct sanctions on Members found to have breached the Members' code of conduct. Instead, the Hearings Panel may make recommendations to the Council or the political group leader of the Member concerned that

the Member should be removed from any executive or committee role that they hold. Where the Hearings Panel is constituted of group leaders there is scope for conflicts of interest to arise and to undermine the effectiveness of the Council's arrangements.

The proposed draft terms of reference for the Standards Committee and Standards Hearing Panel resolve these tensions by allowing the Standards Committee to appoint the Standards Hearings Panel and by limiting the membership of the Standards Hearings Panel to members of the Standards Committee.

**3.7.** Options considered but not proposed in the draft terms of reference include:

- the constitution of a further sub-committee of the Standards Committee to receive from the Monitoring Officer reports on investigations undertaken and sanctions imposed where the allegations do not qualify for escalation to the Standards Hearing Panel. While such a sub-committee would provide a further member involvement and assurance on the action taken, the disadvantage of this approach would be that it would remove the opportunity for all Members of the Standards Committee to have oversight over this element of the committee's remit and would increase the number of meetings members would need to attend. Instead, it is proposed that reports of the Monitoring Officer on investigations carried out and determined without Member involvement should be made to the Standards Committee itself on a quarterly basis;
- the facility for Members dissatisfied with the outcome of an investigation determined by the Monitoring Officer to appeal the finding to the Standards Hearing Panel. The process includes the safeguard that Monitoring Officer must seek and take into account the views of the Independent Person when making decisions on breaches of the code of conduct, and Members have the opportunity to complain to the Local Government and Social Care Ombudsman if they feel that an investigation was flawed. It is a fundamental principle of the Council's approach to the administration of the code of conduct that decisions should be made at the lowest appropriate level to reduce the administrative burden on Members and Officers, reputational risk to the Council, and cost. For this reason no right of appeal has been provided for in the draft terms of reference.

**4. Consultations undertaken**

- 4.1.** The draft terms of reference have been produced in consultation with officers within the Governance workstream within the Local Government Reorganisation project.

## **5. Implications**

- 5.1.** The Council has a legal obligation to maintain high standards of conduct of its Members. The effective administration of the code of conduct for members will also reduce the risk of reputational harm to the Council and promote good governance within the Council.
- 5.2.** Because the investigation and determination of complaints about breaches of the code of conduct is quasi-judicial in nature it is important for that processes adopted should be fair and transparent.

## **6. Background papers**

- 6.1.** The Committee should refer to the following documents:
  - draft Standards Committee terms of reference;
  - draft Standards Hearing Panel terms of reference.

**Note** For sight of individual background papers please contact the report author

## **PART D - Standards Committee Terms of Reference**

### **1. General**

- 1.1 The Standards Committee is responsible for promoting and enforcing high standards of conduct by Members and co-opted Members and assisting Members and co-opted Members to observe the Council's code of conduct. The committee will have the roles and responsibilities set out in the Terms of Reference below.
- 1.2 The terms of reference will be formally approved by the Council.
- 1.3 These terms of reference shall be reviewed by the Council on the advice of the Committee and on a regular basis to ensure that they remain fit for purpose and in accordance with any relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

### **2. Membership, Chairmanship and Quorum**

Number of Members	10 (including 5 co-opted community representatives without voting rights)
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By resolution of the Council
Restrictions on Membership	May not include members of the Executive
Restrictions on Chairmanship/Vice-Chairmanship	The Committee must be chaired by a Member of the Council
Quorum	3 members who are Members of the Council
Number of ordinary meetings per Council Year	At least 2 per year
Standing Sub-Committees	Hearings Panel

### **3. Definitions**

- 3.1 The following terms:

### **4. Terms of Reference**

- 3.1 The Standards Committee will have the following functions:
- (i) to promote and maintain high standards of conduct by Members, co-opted Members and Officers;

- (ii) to supervise the Council's compliance with legislative requirements in relation to the maintenance of standards of Member conduct;
- (iii) to assist Members and co-opted Members to observe the Members' Code of Conduct;
- (iv) to support the Monitoring Officer in discharging their role in respect of standards of conduct and behaviour;
- (v) to receive reports and advice as required from the Monitoring Officer and any Independent Persons appointed by the Council under section 28 of the Localism Act 2011;
- (vi) to review the operation and effectiveness of the Members' Code of Conduct and recommend any changes considered necessary to the Council for approval;
- (vii) to appoint, as required, from among its membership, a Hearing Sub-Committee to determine allegations of misconduct referred to the Committee by the Monitoring Officer;
- (viii) to keep under review the operation and effectiveness of the Standards Hearing Sub Committee arrangements and to recommend any changes considered necessary to the Council for approval;
- (ix) to review the Monitoring Officer's arrangements for the investigation of allegations of breaches of the Council's Code of Conduct by Members and co-opted Members and to make recommendations for appropriate changes to the Monitoring Officer;
- (x) to make recommendations to Council with regard to the appointment of Independent Persons;
- (xi) to advise (including advising parish councils in Somerset in respect of members of their councils) on the induction and training of Members and co-opted Members on standards of conduct;



- (xii) to review the operation and effectiveness of the Council's Officer Code of Conduct and make recommendations on proposed changes to the Council;
- (xiii) to determine, subject to the applicable law, the requirements for the registration of Members' and co-opted Members' interests;
- (xiv) to review the Monitoring Officer's maintenance of the Members' and officers' registers of interests and gifts / hospitality;
- (xv) to grant dispensations to Members and co-opted Members from requirements relating to interests as set out in the Member Code of Conduct, and where appropriate, the Planning Protocol. This function has also been delegated to the Monitoring Officer in relation to all grounds of dispensation with a power to refer back to the Standards Committee;
- (xvi) In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of councillors and co-opted members of the Council, or parish councillors if requested by the Monitoring Officer;
- (xvii) to make an annual report to the Council on the performance of the Committee's functions.

#### **4. Membership**

4.1 The Committee comprises 10 Members as follows:

- (i) 5 Members Somerset Council; and
- (ii) up to 5 co-opted community representatives appointed by Somerset Council as non-voting members of which at least 3 should be members of parish councils in Somerset.

## **5. Committee Business**

5.4 The following may put items on the Committee's agenda:

- (i) the Committee itself;
- (ii) the Council;
- (iii) the Leader;
- (iv) the Chair of any Council Committee;
- (v) a member of the Committee, including a co-opted member
- (vi) the Chief Executive;
- (vii) the Monitoring Officer;
- (viii) the Chief Finance Officer / Section 151 Officer.

## **PART D – Standards Hearings Sub-Committee Arrangements**

### **1. General**

- 1.1 The Standards Hearing Sub-Committee deals with the assessment and determination of complaints under the Members' Code of Conduct against Members and Co-opted Members where referred by the Monitoring Officer following consultation with the Council's Independent Person. Where an investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, a Standards Hearing Sub-Committee shall be convened by the Chair of the Standards Committee (or, where they are the subject of the complaint, the deputy Chair) on the request and advice of the Monitoring Officer to consider and determine the complaint.
- 1.2 The Standards Hearing Sub-Committee will have authority to determine the complaint referred to it and apply sanctions under the Council's procedure.
- 1.3 Given the wider provisions in place for determining complaints against members, it is expected that these arrangements will only be required to be used in exceptional circumstances where the alleged breach of the Code of Conduct is particularly serious and a satisfactory outcome has not been achieved through the other stages of the process.
- 1.4 The terms of reference will be formally approved by the Council.
- 1.5 These terms of reference shall be reviewed by the Standards Committee at least annually to ensure that they remain fit for purpose and in accordance with the law and any regulations. Any revisions will be agreed by the Council.

### **2. Membership, Chairmanship and Quorum**

Number of Members	3
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	As set out in para 4 below
Restrictions on Membership	As set out in para 4 below

Restrictions on Chairmanship/Vice-Chairmanship	Only the Chair or (in their absence) the Vice Chair of the Standards Committee may chair the Hearing Panel
Quorum	3
Number of ordinary meetings per Council Year	None – the Standards Hearing Sub-Committee only meets when convened to hear specific complaints by the Monitoring Officer

### **3. Terms of Reference**

3.1 The Standards Hearing Sub-Committee will:

- (i) hear and determine complaints in relation to serious allegations of breaches of the Council’s Code of Conduct by Members and co-opted Members as referred to it by the Monitoring Officer;
- (ii) where it has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council’s Code of Conduct for Members decide on an appropriate sanction from among those detailed in paragraph 5 below;
- (iii) on the advice of the Monitoring Officer, adopt a procedure for hearings which:
  - complies with the rules on access to information set out in the Local Government (Access to Information) Act 1985 (as amended, updated or replaced);
  - upholds the principles of natural justice and the right to a fair trial;
  - has regard to any advice and guidance on the conduct of hearings into member conduct issued by the Local Government Association from time to time;
  - is appropriate and proportionate taking into account the nature and complexity of the allegations concerned.

### **4. Membership**

- 4.1 The Standards Hearing Sub-Committee comprises 3 Members.
- 4.2 Subject to paragraph 4.3, the Members of the Standards Hearing Sub-Committee will be:
- (i) The Chair or (in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee; and
  - (ii) 2 other Members of the Standards Committee nominated by the Chair (or in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee.
- 4.3 No Member who is the subject of a complaint to be determined by the Standards Hearing Sub-Committee may:
- (i) act as a member of the Standards Hearing Sub-Committee for the hearing; or
  - (ii) nominate a representative to be a member of the Standards Hearing Sub-Committee.

## **5. Sanctions**

- 5.4 Where the Standards Hearing Sub-Committee has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members (or that a member of a parish council has breached their parish council's code of conduct for members) it may make a report to the Council (or, where appropriate, the parish council) for information and may further impose, or recommend that the Council (or the parish council where appropriate) imposes, any of the following sanctions which the Standards Hearing Sub-Committee determines to be appropriate having regard to its findings:
- (i) a recommendation to the Council (or, where appropriate, the parish council) that it should make a motion of censure in relation to the Member's conduct;
  - (ii) a recommendation;

- in the case of the Council, to the leader of the Member's political group (where the Member is a member of a political group, and otherwise to the Council) that the Member is removed; or
- in the case of a member of a parish council, to the parish council, that the member is removed;

from any or all Committees or Sub-Committees of the Council of which they are a member;

(iii) a recommendation:

- in the case of an Executive Member, to the Leader of the Council that the Member is removed from the Executive, or removed from particular Executive responsibilities;
- in the case of the Leader of the Council, to the Council that the Member be removed from their role as Leader of the Council;

(iv) an instruction to the Monitoring Officer to arrange training for the Member which is appropriate to the Member's conduct (or where appropriate, a recommendation to the parish council that such training should be arranged);

(v) the removal of the Member from all outside appointments to which he/she has been appointed or nominated by the Council (or where appropriate, a recommendation to the parish council that such action should be taken);

(vi) the withdrawal for a specified period of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access (or where appropriate, a recommendation to the parish council that such action should be taken);

(vii) the exclusion for a specified period of the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive, Committee and Sub-

Committee meetings (or where appropriate, a recommendation to the parish council that such action should be taken);

- (viii) if relevant, a recommendation to the secretary or appropriate official of a political group that the Member be removed as group leader or other position of responsibility;
- (ix) A recommendation to the Council (or where appropriate, to the parish council) that contact between the Member and officers of the Council should be restricted to specified officers only.

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