

Somerset County Council
Standards Committee
02 February 2023

Standards Committee and Hearing Panel Terms of Reference

Lead Member: John Bailey, Chair of the Committee

Lead Officer: Scott Wooldridge, Monitoring Officer

Author: Tom Woodhams, Deputy County Solicitor

Contact Details: tom.woodhams@somerset.gov.uk, 01823 355016

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 1st 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 1st 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