

# CHESHIRE EAST COUNCIL

## REPORT TO: STANDARDS COMMITTEE

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**Date of Meeting:** 13<sup>th</sup> July 2009

**Report of:** Borough Solicitor and Monitoring Officer

**Subject/Title:** Terms of Reference – Standards Sub-Committees

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### **1.0 Report Summary**

- 1.1 The report details the changes to the Terms of Reference for two of the standing Sub-Committees of the Standards Committee, namely [(1) Assessment; and (2) Hearings]. For completeness, a copy of the Terms of Reference for the Review Sub-Committee, which remains unaltered, is also enclosed.

### **2.0 Recommendation**

- 2.1 The Committee is asked to RESOLVE –

That the revised Terms of Reference for the Assessment Sub-Committee and the Hearings Sub-Committee be confirmed.

### **3.0 Reasons for Recommendation**

- 3.1 The revised Terms of Reference for two of the Standards Sub-Committees comply with relevant legislation, and Guidance issued by the Standards Board for England.

### **4.0 Wards Affected**

- 4.1 Not applicable

### **5.0 Local Ward Members**

- 5.1 All Councillors

### **6.0 Policy Implications**

- 6.1 None identified

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None identified.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 None identified.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 None identified.

**10.0 Risk Management**

10.1 The creation of separate Sub-Committees to deal with Hearings has ensured that the separate functions involved in the handling of complaints can be carried out without conflicts of interest.

**11.0 Background and Options**

11.1 At its meeting held on 13<sup>th</sup> January 2009, the Committee agreed to the establishment of two Sub-Committees to fulfil its assessment and review roles, namely the Assessment Sub-Committee and the Review Sub-Committee.

11.2 On 10<sup>th</sup> March 2009, the Committee agreed to establish a separate Hearings Sub-Committee and approved its Terms of Reference. The Sub-Committee's role would be to conduct hearings in the event of the Assessment Sub-Committee concluding that the complaint should be considered further.

11.3 Subsequently, difficulties were encountered in respect of the Terms of Reference and the Monitoring Officer reported on these at the meeting held on 18<sup>th</sup> May 2009. They conflicted, in part, with Guidance issued by the Standards Board for England. The Monitoring Officer outlined proposed amendments and these were accepted by the Committee which delegated authority to the Monitoring Officer to make any consequential amendments.

11.4 The detailed Terms of Reference for each of the three Sub-Committees is attached. The following is a summary of the role of each.

- Assessment Sub-Committee: (3 Members)

The Sub-Committee will receive complaints and make an initial assessment as to whether or not there is a *prima facie* case which warrants further action or investigation.

- Review Sub-Committee: (3 Members)

If the Assessment Sub-Committee concludes that there is no case to answer, and the complainant is dissatisfied with this outcome, he/she can request the Review Sub-Committee to review that decision. This Sub-Committee has the same decision-making powers as the Assessment Sub-Committee, ie (i) refer the complaint for investigation, (ii) refer for other action, (iii) refer to the Standards Board for England, or (iv) decide that no action should be taken.

- Hearings Sub-Committee (5 Members)

This Sub-Committee has a two-fold role. It acts in a “determining” capacity to receive an Investigator’s Report, for the purpose of deciding, based on the facts as set out in the report, whether or not to accept the findings of the Investigator.

If the Investigator’s report concludes that there has been no breach and the Sub-Committee agrees, there is no further action.

If a breach has been identified or the Sub-Committee disagrees with a finding of “no breach”, then it must hold a Hearing to consider the matter in full. This will be a separately convened Sub-Committee and can include the same Members who considered the complaint at “determination” stage. At the Hearing, the subject Member, together with the complainant and any witnesses, will have the opportunity to present their case to Members.

The Sub-Committee will determine whether or not there has been a breach of the Code of Conduct and if it concludes that there has been a breach, will be able to impose appropriate sanctions.

## **12.0 Overview of Year One and Term One Issues**

12.1 None identified.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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