

CHESHIRE EAST COUNCIL

REPORT TO: STANDARDS COMMITTEE

Date of Meeting:	25 January 2009
Report of:	Monitoring Officer
Subject/Title:	Review of Terms of Reference of the Standards Committee

1.0 Report Summary

- 1.1 This report is aimed at enabling members to consider, review, and better understand the role and terms of reference of the Committee.

2.0 Recommendations

- 2.1 That the report be noted and a decision made as to whether or not any further research or action is necessary as a result of consideration of this report.

3.0 Reasons for Recommendations

- 3.1 To fulfil the purpose stated in the report summary above.

4.0 Wards Affected

- 4.1 All.

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including

- 6.1 None.

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

- 7.1 None.

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

- 8.1 None.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 As outlined in the report.

10.0 Risk Management

10.1 Whilst the Council's constitutional arrangements already meet legal requirements, there are various ways in which the committee structures of councils can be set up to fulfil such legal requirements. If any alternative arrangement were to be pursued, it would ultimately require a decision of full Council, and prior to that the view of Governance and Constitution Committee would need to be sought. Legal advice would also be necessary on whether such alternative arrangements were legally compliant and workable.

11.0 Background and Options

11.1 At the Standards Committee's recent informal session, it was agreed that the committee should give further consideration to its terms of reference and its general function with regard to the promotion of good conduct and standards issues in the wider context. In particular, the relationship between the Standards Committee and the Governance and Constitution Committee, and the Council's arrangements for whistle-blowing and anti-bullying were raised.

11.2 Some Members of the Committee will recall that on 8 July 2008 the Committee considered a report relating to its role, responsibilities and work programme at that point in its development, and as part of that report, its terms of reference at that time were appended.

11.3 At that time, the committee existed in its shadow format only, and Independent members and town/parish council members were yet to be selected and appointed. Also, at that time, the shadow committee had yet to gain its current full statutory functions. Since then, the Council's Constitution, adopted by full Council in February 2009, has updated the terms of reference of the Standards Committee, and a copy of the current Terms of Reference, lifted direct from the Constitution, is shown at Appendix 1.

11.4 In March 2009, the committee considered a report on promoting its work, although this exercise was mainly centred around awareness and publicity, rather than scope. Since then, the committee has been keen to work to raise its profile. It is therefore now a suitable time for the Standards Committee reflect upon its functions and give consideration to their breadth and effectiveness.

- 11.5 Cheshire East Borough Council has arranged for the discharge of its functions by the creation of a number of regulatory and other committees, of which the Standards Committee (which it is statutorily required to have) is one. Another of its committees is the Governance and Constitution Committee. This is not a statutory necessity, but was set up having regard to the emergence of the two unitary authorities in Cheshire from the former seven authorities, and the consequent need to have a robust mechanism for development of the Constitution and other governance issues. A copy of its terms of reference, again lifted direct from the Constitution, is shown at Appendix 2.
- 11.6 Some authorities which do not have a Governance and Constitution Committee or its equivalent have some of the functions included within the terms of reference of their Standards Committees, such as, for example, the statutory approval of the annual Statement of Accounts, and receipt of the Annual Audit report. However, as these functions cannot legally be discharged by individuals who are not elected members of the principal authority (such as independent members, or town or parish members) their Standards Committees have to be organised in such a way that these particular functions are discharged by only the elected members of the principal authority for these specific purposes. Some authorities have Standards and Audit Committee, which undertakes both Standards and Audit functions, although again, only elected members of the authority can discharge some of the audit functions. Alternatively, such authorities may have a separate Audit Committee to undertake audit work. A further key function often undertaken by an Audit Committee is the development of a Code of Corporate Governance and approval of the Annual Governance Statement. Cheshire East does not currently have an Audit Committee because all the functions that could be undertaken by one are covered by the Governance and Constitution Committee. From the officer viewpoint, the Council also has an officer working group called the Corporate Governance Group which includes the Monitoring Officer, Head of Internal Audit, and other officers, and provides advice and guidance on corporate governance issues. The Audit Commission, as the Council's external auditor, has suggested that the Council may wish to consider the formation of a separate Audit Committee. The Chartered Institute of Public Finance and Accountancy (CIPFA) has also published guidance on the role and functions of audit committees, to encourage putting them in place and to make established committees more effective.
- 11.7 At the Standards Committee's informal session, it was requested that this report should also include reference to the Council's policies for dealing with bullying and whistle-blowing. The Constitution includes, in its section on codes and protocols, a "Whistle-blowing Protocol. This is commensurate with those commonly found in the Constitutions of similar authorities, and it sets out the procedures to be followed in the event of concerns being raised, and the legal safeguards contained in

the Public Disclosure Act 1998 for people raising whistle-blowing issues. Although reference is made to the Member Code of Conduct in relation to the disclosure of information, the protocol covers situations which are potentially much wider than the Standards Committee's core function, which is in relation to elected Member behaviour. At present, the committee to which headline details of whistle-blowing issues would be reported is the Governance and Constitution Committee, under the auspices of the Internal Audit Update and Plan, and, specifically, the section of those reports which relate to instances of potential fraud and irregularities. Clearly, the very nature of whistle-blowing issues, the sensitivity of such matters and the statutory protection for those who raise such matters precludes any obviously identifiable details being reported by this method, but the number of cases, if any, the stages they have reached, and whether or not they remain live are examples of details that may be capable of inclusion. Whilst this function is presently exercised by the Governance and Constitution Committee, the Standards Committee also has a role to advise the Council on the adoption and revision of the Codes of Conduct for Members and Officers, and whilst the Whistle-blowing protocol is not strictly either of those, the breadth of this role and the potential of a whistle-blowing protocol to impact on both members and officers if an issue is raised indicates that the Committee should be able to put forward observations on the Whistle-blowing protocol if it desires to do so.

- 11.8 The Council has chosen to style its anti bullying document as its "Dignity at Work" policy and this is attached at Appendix 3. This document was approved by the shadow Cabinet in March 2009. This document is not part of the Constitution and there is no requirement for it to be so. The committee may wish to offer observations on the Council's current arrangements in this regard.

12.0 Overview of Year One and Term One Issues

- 12.1 As the Standards Committee approaches the end of its first full year of operation, now is an appropriate time for it to review the breadth of its functions and the part it plays in promoting good conduct and governance within the Council.

13.0 Access to Information

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

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