

Non-Executive Report of the:  <b>Standards (Advisory) Committee</b>  17 January 2019	
<b>Report of:</b> Asmat Hussain, Corporate Director, Governance	<b>Classification:</b> Unrestricted
<b>Revised Terms of Reference</b>	

<b>Originating Officer(s)</b>	Mark Norman – Legal Adviser & Deputy Monitoring Officer
<b>Wards affected</b>	(All Wards);

### Summary

This report updates the Advisory Committee on the proposals for revisions to Advisory Committee's terms of reference.

### Recommendations:

- (1) That Members of the Advisory Committee consider and comment on the proposed revised terms of reference attached as Appendix 1.
- (2) That subject to any comments, the Advisory Committee recommend the draft revised terms of reference for adoption by full Council.

## **1. REASONS FOR THE DECISIONS**

- 1.1 This report informs the Advisory Committee of proposed revisions to the Committee's terms of reference. The revisions are being proposed as part of a wider review of the Council's constitutional arrangements and draw on best practice across other authorities with the aim of improving clarity.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Advisory Committee could decide not to recommend the revised terms of reference for adoption by full council.

## **3. DETAILS OF REPORT**

- 3.1 The proposed revised terms of reference are attached at Appendix 1 (with track changes to the current terms of reference) and Appendix 2 (without track changes). The proposed revisions which draw on best practice and are designed to improve effectiveness are summarised below:

- Membership of the Committee is reduced from 14 to 9 members.
- The role of the Independent Person is specifically referenced.
- The existing functions of the Committee are simplified and clarified.
- The functions are broadened to include a wider standards remit.
- Duplication with other parts of the Council constitution is removed.
- Reference to Hearings and Hearings (Appeals) Sub-Committees is removed.
- The attendance requirements for members is deleted.
- There is increased flexibility for the Committee to agree procedures.

## **4. EQUALITIES IMPLICATIONS**

- 4.1 There are no immediate equalities implications arising from this report.

## **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.

5.2 The proposed revisions to the terms of reference are designed to improve clarity which in turn should assist the Committee in fulfilling its functions.

**6. COMMENTS OF THE CHIEF FINANCE OFFICER**

6.1 This report informs the Advisory Committee of proposed revisions to the Committee's terms of reference. There are no financial implications arising from this report. However In the event that the Council agrees further action in response to this report, which could lead to additional resources been required, officers, will be obliged to seek appropriate approval through the council's financial approval process before making any commitments.

**7. LEGAL COMMENTS**

7.1 The terms of reference for the Standards (Advisory) Committee form part of the Council's Constitution and any revisions require the approval of full Council..

---

**Linked Reports, Appendices and Background Documents**

**Linked Report**

- NONE

**Appendices**

- NONE

**Local Government Act, 1972 Section 100D (As amended)**

**List of "Background Papers" used in the preparation of this report**

- NONE

**Officer contact details for documents:**

- N/A

## **1. Composition**

~~1.1 The Standards Advisory Committee shall be comprised of~~

- ~~• 7 Members of the Council 5 councillors (not including the Mayor or more than 1 Cabinet member) and each political group may appoint up to 3 substitutes), appointed by the Council in accordance with the requirements of political proportionality; and~~

~~• up to 4 4 Independent co-opted persons who are not Members or officers of the Council or any other relevant~~

~~Authority (i.e. Co-opted members).~~

1.2 The Co-opted member(s) will be entitled to vote at meetings under the provisions of section 13(4)(e) of the Local Government and Housing Act 1989. The Standards Advisory Committee (SAC) shall be chaired by an independent Co-opted member.

The Council has appointed two statutory Independent Persons to assist in dealing with complaints of alleged breach of the Code of Conduct for Members under section 28(7) of the Localism Act 2011. They are not co-opted member of the SAC but may attend and observe any meeting of the Committee or a sub-committee established by it.

~~1.3 The Committee shall establish Hearings and other Sub-Committees in accordance with its terms of reference.~~

## **2. Appointment of Co-Opted Members**

~~2.1 A person may not be appointed as a Independent Co-opted members of the Standards Advisory Committee or one of its sub-committees unless the appointment is approved by shall be appointed by Full Council on the recommendation of the Monitoring Officer.~~ The term of appointment shall be for 4 years unless otherwise determined by Council or the Co-optee does not continue to fulfil any required conditions as may be determined by the Authority from time to time. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

## **3. Roles and Functions**

~~3.1 The Standards Advisory Committee has the following roles:~~

~~(a) To recommend to the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the~~

~~Monitoring Officer or an investigator appointed by the Monitoring Officer; and where a complaint has been subject to such investigation, to recommend whether or not the complaint should proceed to hearing. Where the Monitoring Officer considers that a complaint should not be subject to investigation or should not proceed to hearing, s/he shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee comprising at least 3 different Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor) which shall make the final decision on the matter;~~

(a) Promoting and maintaining high standards of conduct by the Mayor, Councillors and Co-opted Members of the Council.

(b) Advising the Council on the adoption or revision of the Code of Conduct for Members.

(c) To monitor and advise the Council about the operation of the Code of Conduct for Members in light of best practice and changes in the law.

~~(b) To receive regular quarterly reports from the Monitoring Officer on the numbers of complaints of the Code received, the decisions taken by the Monitoring Officer (in consultation with the Independent Person) on such complaints and investigation outcomes. where the investigation determines there was no evidence of a failure to comply with the code or where the investigation outcome recommends a local resolution;~~

(d) Advising, training or arranging to train the Mayor, councillors and co-opted members on matters relating to ethics and probity and the Code of Conduct.

(ee) To appoint sub-committees for the purpose of discharging any of the Committee's functions including the consideration and determination of complaints of breach of the Code of Conduct for Members~~convene a Hearings Sub-Committee of 3 Members of the Standards Advisory Committee comprising 2 of the co-opted members and 1 Councillor to consider any matter where the investigation finds evidence of a failure to comply with the Code and a local resolution is not possible or appropriate;~~

(g) As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.

~~(d) To make such recommendations to Council in respect of the matter as the Hearings Sub-Committee considers appropriate as a result of any matter referred including;~~

~~(i) Reporting its findings to Council for information;~~

~~(ii) Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees)~~

~~removal from any or all Committees or Sub-Committees of the Council;~~  
~~(iii) Recommending to the Mayor removal from the Executive, or from particular Portfolio responsibilities;~~  
~~(iv) Recommending the Monitoring Officer arrange training for the member;~~  
~~(v) Recommending removal from outside appointments to which s/he has been appointed or nominated;~~  
~~(vi) Recommending withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;~~  
~~(vii) Recommending excluding 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;~~  
~~(viii) Recommending the Member to contact the Council via specified point(s) of contact;~~

~~(e) To convene a Hearings (Appeal) Sub-Committee of at least three different Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor) to consider any appeal against a finding of, or sanction recommended by, the Hearings Sub-Committee;~~

~~(f) To receive reports on compliance with any recommendation(s) made for sanctions to be applied in respect of any member;~~

~~(g) Promoting and maintaining high standards of conduct by the Mayor, Members of the Council, co-opted members including church and parent governor representatives and where the Committee considers that there may be issues of concern recommending that the Monitoring Officer considers and reports on the issues raised;~~

~~(h) Assisting the Mayor, Members of the Council, co-opted members including church and other faiths and parent governor representatives to observe the Council's Code of Conduct for Members;~~

~~(i) Advising the Council on the adoption or revision of the Code of Conduct for Members;~~

~~(j) Monitoring the operation of the Code of Conduct for Members;~~

~~(k) Advising, training or arranging to train the Mayor, Members of the Council and co-opted members including church and other faiths and parent governor representatives on matters relating to the Code of Conduct for Members;~~

~~(l) To act as an advisory body in respect of any matters referred to the Standards Committee by the Local Strategic Partnership (LSP) or Community Forums in respect of probity issues arising out of the codes~~

and protocols applicable to relevant members of the LSP and Community Forums as set out in the Community Forum handbook and as may be amended from time to time;

~~(m) To advise on allegations of Member breaches of the Protocols set out in the constitution as may be referred to the Committee by the Monitoring Officer and to make recommendations with regard to such allegations as maybe so referred;~~

~~(n) Advising on local protocols for both Officer and Member governance;~~

~~(o) To monitor and review Member and Officer Procedures for registering interests and declaring gifts and hospitality;~~

~~(p) To receive periodic reports on the Council's Ethical Governance arrangements, on whistle blowing arrangements and complaints; and~~

~~(k) As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.~~

(i) To deal with any reports from the Monitoring Officer on any matter relating to standards of conduct.

(j) Other functions relating to the standards of conduct of members under any relevant statutory provision or otherwise.

#### **4. Validity of proceedings**

4.1 A meeting of the ~~Standards Advisory Committee~~ SAC or one of its sub-committees shall only be quorate where at least three members of the Committee or Sub-Committee are present for its duration and such quorum must include at least one Councillor and at least one Independent Co-opted Member.

~~4.2 Part VA of the Local Government Act 1972 applies in relation to meetings of the Standards Advisory Committee or its Sub-Committees as it applies to meetings of the Council.~~

#### **~~5. Hearings Sub-Committee and Hearings (Appeal) Sub-Committee~~**

~~5.1 Any Hearings Sub-Committee or Hearings (Appeal) Sub-Committee shall comprise a minimum of three Members of the Standards Advisory Committee at least two of whom shall be co-opted members.~~

~~5.2 The Hearings Sub-Committee shall consider complaints referred to it that the Mayor, an elected or co-opted Member of the Council may have failed to comply with the Council's Code of Conduct for Members or local protocol~~

~~where the complaint has been subject to an investigation arranged by the Monitoring Officer and shall make recommendations accordingly. The Hearings Sub-Committee shall decide at the outset of the meeting whether it is in the public interest that the Hearing is held in a public or private session in accordance with relevant statutory guidance as advised by the Monitoring Officer.~~

~~5.3 The membership of the Hearings (Appeal) Sub-Committee shall not include any member who served on the Hearings Sub-Committee that considered the same complaint.~~

~~5.4 The Independent Person, or if that person is unable to act a reserve Independent Person, shall have the right to attend all meetings of the Hearings Sub-Committee or Hearings (Appeal) Sub-Committee as an observer but may not vote or participate in the decision making.~~

## ~~6. Attendance Requirements~~

~~6.1 In the event that any Member of the Committee does not attend three or more consecutive meetings of the Committee, the Committee may draw the attention of the Council to such non-attendance and may recommend that the member concerned be replaced on the Committee.~~

~~6.2 The Committee shall not do so without first giving the absent Member an opportunity to make representations (which may be made in writing) as to their non-attendance and any matters they wish the Committee to take into account.~~

## ~~67. Procedures~~

~~7.1 The Committee shall agree a set of such procedures as it considers necessary and appropriate to enable it to discharge its' functions. the arrangements under its Terms of Reference.~~

## **8. Confidentiality**

8.1 The Committee and any of its ~~s~~Sub-~~c~~Committees may meet in private in accordance with ~~the~~ relevant legislation as advised by the Monitoring Officer. Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential.

**1. Composition**

- 5 councillors (not including the Mayor or more than 1 Cabinet member - each political group may appoint up to 3 substitutes)
- up to 4 independent co-opted members.

Co-opted Members will be entitled to vote at meetings under the provisions of section 13(4)(e) of the Local Government and Housing Act 1989. The Standards Advisory Committee (SAC) shall be chaired by an independent co-opted member.

1.1 The Council has appointed two statutory Independent Persons to assist in dealing with complaints of alleged breach of the Code of Conduct for Members under section 28(7) of the Localism Act 2011. They are not co-opted member of the SAC but may attend and observe any meeting of the Committee or a sub-committee established by it.

**2. Appointment of Co-Opted Members**

2.1 Independent Co-opted members shall be appointed by full Council on the recommendation of the Monitoring Officer. The term of appointment shall be 4 years unless otherwise determined by Council. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

**3. Functions**

(a) Promoting and maintaining high standards of conduct by the Mayor, Councillors and Co-opted Members of the Council.

(b) Advising the Council on the adoption or revision of the Code of Conduct for Members.

(c) To monitor and advise the Council about the operation of the Code of Conduct for Members in light of best practice and changes in the law.

(d) Advising, training or arranging to train the Mayor, councillors and co-opted members on matters relating to ethics and probity and the Code of Conduct.

(e) To appoint sub-committees for the purpose of discharging any of the Committee's functions including the consideration and determination of complaints of breach of the Code of Conduct for Members.

(f) As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.

(g) To deal with any reports from the Monitoring Officer on any matter relating to standards of conduct.

(h) Other functions relating to the standards of conduct of members under any relevant statutory provision or otherwise.

#### **4. Validity of proceedings**

4.1 A meeting of the SAC or one of its sub-committees shall only be quorate where at least three members of the Committee or Sub-Committee are present for its duration and such quorum must include at least one councillor and at least one independent co-opted member.

#### **5. Procedures**

5.1 The Committee shall agree such procedures as it considers necessary and appropriate to enable it to discharge its' functions.

#### **6. Confidentiality**

6.1 The Committee and any of its sub-committees may meet in private in accordance with relevant legislation as advised by the Monitoring Officer. Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential.