

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee 10 March 2010
AUTHOR/S: Chief Executive / Executive Director (Corporate Services)

AMENDMENTS TO THE CONSTITUTION – ARTICLE 9 – THE STANDARDS COMMITTEE

Purpose

1. To recommend to the Constitution Review Working Party amendments to the Constitution to provide additional clarity to matters relating to the Standards Committee. This is not a key decision.

Background

2. Article 9 of the Council's Constitution sets out the composition and terms of appointment to the Standards Committee, as well as the Committee's role and function. The Standards Committee is subject to the Council's Standing Orders, including the right of full Council to remove a member for non-attendance, but this is not stated explicitly in Article 9. Article 9 lacks provisions for the formal co-option by full Council of independent and parish council members, and for the removal of Council and co-opted members who no longer qualify for membership, or for whom it is felt no longer to be in the best interests of the Council, the parish councils and the residents of South Cambridgeshire to continue to serve.

Considerations

Formal co-option of Independent and Parish Council Members

3. Formal power for local authorities to co-opt onto their committees persons who are not elected members of the authority was granted by the Local Government Act (LGA) 1972, s.102¹. The power for co-option rests with the full Council² and Article 9, as it currently stands, asks Council only to 'ratify' appointments of Independent Members, and does not allow any input into the appointment of the Parish Council Members. With regards to the independent member appointments, Standards for England's Guidance on the role and make-up of standards committees states "The regulations require a majority of all members of the authority to approve the appointment [of independent members]". With regards to parish council member appointments, the Standards Committee (England) Regulations 2008 state that the authority "may adopt such procedures as it thinks fit for the appointment to the standards committee of...members of parish councils".
4. Although the LGA 2000 s.53 grants voting rights to "a member of the Standards Committee...who is not a member of the authority", without formal co-option by the Council, they do not have the right to claim co-optees' allowances or any travel or carer's expenses under the terms of the Members' Allowances Scheme. The existing appointments processes have proven successful and, in the case of the process for independent member appointments, highlighted in a national study as an example of notable practice, therefore it is proposed that these processes remain unchanged,

¹ As modified by the Local Government and Housing Act 1989, s. 13, to define the two categories of co-opted voting and co-opted non-voting members.

² The exception is the Scrutiny and Overview Committee, which was granted authority by the LGA 2000 to co-opt non-elected members directly onto that body.

subject to clarification that the final stage in both is formal co-option by the full Council, enabling access to the provisions of the Members' Allowances Scheme.

Removal of a Standards Committee member due to non-attendance

5. Standing Order 18.2 – Record of Attendance: Removal of a Member reads (amendment highlighted): “The Council may remove a member from a body to which he or she has previously been appointed, if the member has missed four consecutive meetings of the body concerned.” Standing Order 23 – Application to Executive, Committees and Sub-Committees states that this power applies to all meetings of committees and sub-committees.
6. For the sake of clarity, it is recommended that the following addition be made to Article 9 – The Standards Committee, as 9.02 (g) and subsequent paragraphs be renumbered:
“9.02 (g) **Removal of a Member due to non-attendance:** The Council may remove a Council, Independent or Parish Member from the Standards Committee if that member has missed four consecutive meetings of the body concerned (see Council Standing Order 23).”

Removal of a Standards Committee member generally

7. Council Standing Order 2.2, Removal of a Member from a Council Committee or Sub-Committee, referring to appointments made by the Council to committees and sub-committees, states “The Council reserves the right to remove any councillor from a Council committee or subcommittee if it considers that it is no longer in the best interests of the Council for that member to remain. Written notice of motion, giving reasons, signed by five members of the relevant parent committee must be delivered to the proper officer not later than 7 working days before the date of the council meeting. Any such motion shall be carried only if at least two thirds of the members present at the meeting are in favour.”
8. It is recommended that reference to Standing Order 2.2 be included at paragraph 9.02 (b), stating that it will apply to Council members of the Standards Committee.
9. A local authority has the power to remove a council member from one of its own committees; therefore, it must be presumed to have similar power over a co-opted member. This view is reinforced by the decision in *R. v. Peak Planning Board ex parte Jackson* (1976), in which a distinction was made between nomination and appointment: if the body upon whose nomination the person has been co-opted notifies the local authority that it wishes to replace its nominee then, always assuming that the co-opted person has not become disqualified, the local authority alone can determine whether to accede to the nominating body's request.
10. In the case of the parish council member appointments process, there is no individual nominating body, only the number of parish councils which chose to participate in the election. Similar provisions to Standing Order 2.2 could be included to enable the removal of co-opted members in circumstances other than non-attendance or, in the case of parish council representatives, no longer being a parish councillor (which is covered by 9.02(f)). In order to retain the right of parish councils to nominate their own representatives, it is proposed that the procedure for removal of a parish council representative be:
“9.02 (h) **Removal of a parish council member:** The Council reserves the right to remove any parish council representative from the Standards Committee if it considers that it is no longer in the best interests of the Council, the parish councils and the residents of South Cambridgeshire for that member to remain. Written notice of motion, giving reasons, signed by or

on behalf of at least fifteen parish councils from within South Cambridgeshire, or by five members of the Standards Committee, must be delivered to the Monitoring Officer not later than seven working days before the date of the Council meeting. Any such motion shall be carried only if at least two thirds of the members present at the Council meeting are in favour.”

11. Officers felt that fifteen parish councils would be a suitable representation of South Cambridgeshire’s parish councils, considering the geographic spread of the parishes and that the administration required to co-ordinate such a motion to the District Council would reflect the seriousness of such a request for removal; noting also that the highest turnout for a Standards Committee election by the ninety parish councils, ten parish meetings and one community council has been 40%.
12. Co-opted persons appointed under the general enabling power of local authorities must not be disqualified from membership of the appointing authority³, and the person specification for Independent Members sets out this and other criteria which, if met, would disqualify an applicant.
13. If, at any time, the circumstances of an Independent Member should change so that he or she would no longer meet the criteria necessary to apply for the position, that person would automatically become disqualified as an independent member of the Standards Committee. Suggested wording for Article 9 is:
”9.02 (i) **Removal of an independent member due to disqualification:** An independent member will be removed automatically from the Standards Committee immediately upon a change of circumstance which would prevent that member from being qualified to continue serving as an independent member (see 9.02(c)), and notification of the removal of the independent member due to disqualification will be reported to the next meeting of full Council.”
and
”9.02 (j) **Removal of an independent member:** The Council reserves the right to remove any independent member from the Standards Committee if it considers that it is no longer in the best interests of the Council, the parish councils and the residents of South Cambridgeshire for that member to remain. Written notice of motion, giving reasons, signed by at least five members of the Standards Committee, must be delivered to the Monitoring Officer not later than seven working days before the date of the Council meeting. Any such motion shall be carried only if at least two thirds of the members present at the Council meeting are in favour.”

General

14. The Parish Council Member Appointments process refers to nominations being made by parish councils at their annual parish council meeting. The current wording could lead to confusion: parish councils have Annual Meetings, usually in May, at which the Chairman for the coming year is elected, and they have Annual Parish Meetings, meetings called by the parish council of all the electors of the parish.
15. There is no legal or statutory requirement for nominations to be made at the Annual Meeting of a parish council, although parishes which have elections will not know their final composition until after the election. It is suggested that the wording be revised to invite parish councils to make nominations at their Annual Meeting where an election will be held for that parish council, or at the earliest scheduled parish council meeting after the commencement of the appointments process.

³ LGA 1972, s.104 (1)

Implications

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| 16. | Financial | None. |
| | Legal | None. |
| | Staffing | None. |
| | Risk Management | None. |
| | Equal Opportunities | None. |

Consultations

17. Other Standards Committees via the Standards for England forum and Monitoring Officers at the 12 February 2010 Monitoring Officer conference in London.

Effect on Strategic Aims

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| 18. | Commitment to being a listening council, providing first class services accessible to all. |
| | None specific. |
| | Commitment to ensuring that South Cambridgeshire continues to be a safe and healthy place for all. |
| | None specific. |
| | Commitment to making South Cambridgeshire a place in which residents can feel proud to live. |
| | In order to be seen as an effective champion of high standards of conduct, the Standards Committee must also make provisions for how it will respond to situations if any of its members are felt no longer to have the confidence of the full Council, the parish councils or the residents of South Cambridgeshire, or where any of its members are disqualified due to non-attendance or due to no longer meeting the criteria under which they were appointed. |
| | Commitment to assisting provision for local jobs for all. |
| | None specific. |
| | Commitment to providing a voice for rural life. |
| | None specific. |

Conclusions / Summary

19. The amendments are introduced to provide clarity to the processes for appointment and removal of members of the Standards Committee, and to ensure that the best interests of the District and parish councils and residents of South Cambridgeshire are upheld should situations arise where a member is disqualified or no longer has the confidence of those he or she was appointed to represent.

Recommendations

20. To recommend to the Constitution Review Working Party that the amendments to Article 9 – The Standards Committee (**Appendix A**) be referred to Council for incorporation into the Council's Constitution.

Background Papers: the following background papers were used in the preparation of this report:

Relevant legislation and Standards for England guidance, SCDC Constitution

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