

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee

16 June 2010

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ESTABLISHMENT OF STANDARDS COMMITTEE PANELS UNDER THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008

Purpose

1. To make appointments to the Standards Committee Local Assessment Panel, Hearings Panel and Review Panel for the 2010/11 civic year. These three bodies will meet following the 16 June 2010 Standards Committee meeting to elect their 2010/11 Chairmen. This is not a key decision.

Recommendations and Reasons

2. That the Standards Committee appoint three fixed panels of six members each as the Standards Committee Local Assessment Panel, Standards Committee Local Hearings Panel and Standards Committee Review Panel for 2010/11, and that membership be appointed as per the table shown at **Appendix A**.

Background

3. On 8 May 2008 the Standards Committee (England) Regulations 2008 ("the Regulations) transferred responsibility for assessment of allegations of misconduct from Standards for England (SfE) to local Standards Committees.
4. The Standards Committee, at its meeting of 11 June 2008, approved the terms of reference for the three panels and appointed five members to each: two District Council members, two Independent members and one Parish Council member. For 2009/10 the Standards Committee again appointed five members to each panel: two District Council, two independent members and one parish council member, as well as substitute members to each panel. The Regulations specify that there must not be any overlap in membership of the Assessment and Review Panels, but members of the Assessment and Review Panel may serve on the Hearing Panel to consider or determine any matter, even if they have served previously during the assessment or review stages of that particular case.
5. In March 2010 Standards for England published its review of the local Standards framework, which set out a number of recommendations which, if enacted in legislation, would remove entirely the need for local assessment and review panels. In May 2010 the coalition Government's "Programme for Government" stated, "We will abolish the Standards Board regime", but it remains unclear whether this relates to Standards for England as a public body or a repeal of all Standards-related legislation.
6. Until existing legislation is repealed and / or new legislation is enacted, the current procedures for dealing with allegations of councillor misconduct remain in effect and officers advise that the Standards Committee appoint panels in accordance with the Standards Committee (England) Regulations 2008. Any legislative changes which

arise during the municipal year will be considered by the full Standards Committee at that time, with an extraordinary meeting being convened if necessary to respond to consultation or to adopt new operating procedures.

Considerations

7. The Standards Committee currently has eighteen members, which lends itself easily to three fixed panels of six members each. Panel meetings would continue to have a quorum of three, with an independent Chairman, and a parish member whenever the allegations involve parish councillors.
8. For the past two years the Committee has appointed substitute members to each panel to enable newer Committee members to gain experience by observing panel meetings. Members might now consider that they have had sufficient training and are able to serve on panels as full members.
9. To help inform their decisions, committee members were supplied with a copy of the 2009/10 report on panel membership, which advised that:
 - (a) the **Assessment Panel** was the first stage in the process and meets the most often, considering the complaints made and determining whether they merit investigation, other action (training, mediation, etc.), referral to SfE, or whether they do not merit any further action. This Panel met nine times in 2008/09 and assessed eighteen cases, and seven times in 2009/10 and assessed fourteen cases. Meetings are convened at relatively short notice, to meet the legislated target of twenty working days allowed between receipt of the complaint and issuance of the Panel's decision notice. Meeting length depends upon the complexity of the case. These meetings are not held in public and the papers are returned to the Council for confidential shredding after the meeting.
 - (b) the **Review Panel** meets only if the complainant appeals against an Assessment Panel decision of no further action. It must be comprised of Standards Committee members who were not involved in the initial assessment of the complaint. This Panel met twice in 2008/09 and once in 2009/10. As with the Assessment Panel, its meetings likely will be convened at relatively short notice and the length will depend upon the complexity of the case. Meetings and papers are confidential and agendas are returned to the Council for confidential shredding.
 - (c) the **Hearings Panel** meets following an investigation, and considers the Investigating Officer's report (***consideration meeting***). The Hearings Panel decided unanimously that members of the press and public would be excluded from consideration meetings on the grounds that the report and deliberations were likely to involve the disclosure of exempt information. If the Hearings Panel concludes that there was a breach of the Code of Conduct, a public hearing will be held. This will involve a panel of three members of the Hearings Panel to hear submissions from the investigating officer and the subject member and / or their representatives, and from witnesses, which could include the complainant (***determination meeting***). Determination meetings are held in public unless there is good reason for the press and public to be excluded (the press and public still could be excluded from parts of the hearing if exempt information is to be discussed). Consideration and determination meetings are scheduled as and when required, with agendas distributed five clear working days before the meeting to give Panel members time to read all the material, which sometimes can be substantial and

complex. Determination meetings have a longer period of advance notice before they are held, although they could be preceded by a number of pre-hearing meetings during which Panel members will receive and respond to written requests from the Subject Member and the Investigating Officer for specific arrangements for the hearing, such as additional evidence, witnesses, requests to have the hearing held in private session, etc. There were two determination meetings in 2008/09 (one relating to a matter from before the 2008 Regulations came into effect), and no consideration meetings. There were three consideration meetings in 2009/10 and one determination meeting.

Options

Number of Panels?

10. The legislation provides that a Standards Committee may establish a separate Investigation Reports Panel to consider local investigation reports (consideration meetings) and Hearings Panel to determine allegations at a hearing (determination meetings). In June 2008 the Standards Committee chose to have one panel to discharge both these functions, and continued with this practise in 2009/10.
11. Officers recommend that the Standards Committee continue to appoint three panels as the most efficient method of dealing with allegations of misconduct.

Fixed or Floating Panels?

12. In light of the uncertainty surrounding the future of the Standards regime, officers recommend that panel membership continue to be fixed at six members each, appointed by the Standards Committee at the start of the municipal year, as was done in the two previous years. If legislation changes mid-year, a further report will be brought to the Standards Committee at that time for reconsideration.
13. Alternatively, the Standards Committee could opt for floating panels in line with appointments procedure for sub-committees of the Licensing Committee (2003 Act):
 - (a) appoint to the Standards Committee Local Assessment Panel, Standards Committee Review Panel and Standards Committee Hearings Panel all members of the Standards Committee, excepting any members who choose not to be so appointed, with all Independent Members to act as Chairmen of the Panels as required, subject to the Chairmen having received, or giving a commitment to undertake, the appropriate training required for the role; and
 - (b) authorise the Democratic Services Team Leader, in consultation with the Chairman of the Standards Committee and Monitoring Officer, to appoint three Standards Committee members to any Panel when it is required to meet, comprising an Independent Chairman from the pool agreed in (b) above and two members of the Standards Committee, dependent on availability and having regard to potential conflicts of interest and the requirements of the relevant legislation regarding participation of a parish council member for matters concerning parish councils.
14. If the Standards Committee is minded to change its appointments procedure for panel membership to three floating panels comprising all members of the Standards Committee, the three panels will not need to meet to elect their Chairmen following the meeting of the full Committee on 16 June 2010.

Implications

15. Financial	None specific.
Legal	The appointments must meet the legislative requirements that an independent member serve as Chairman of each panel, and that the membership of the assessment and review panels be different.
Staffing	None specific.
Risk Management	Having a floating membership with appointments made based on expressions of willingness to serve, availability, training and lack of any known conflicts of interest before each and every case could create a delay in the initial assessment process beyond the National Indicator target of twenty working days.
Equal Opportunities	All Standards Committee members have been consulted about their membership preferences. All members will have the opportunity to serve on one panel if they wish.
Climate Change	None specific.

Consultations

16. All Standards Committee members.
17. In addition to Committee members providing their panel membership preferences, the following comments were received:
- (a) John House: "I have no objection to this proposal [recommendation at paragraph 2] if it improves matters."
- (b) James Williams: "I suggest we put a proposal to the independents whether they wish to go through the process of changing the committee and panel membership. I realise that there may be a change in district councillors on the committees but I propose that we leave the independents in exactly the same positions until we know what the government proposes to do. So if they have a different structure, we don't have to go through all the process again. I think it is good to show that we reduce our bureaucracy as much as possible and are seen to set an example of efficient time management.
- "We should not make decisions when we haven't got the full facts in front of us."
- (c) Mary Pilfold-Allan: "My view is, if the panels have worked OK over the last year, why change anything at this stage? To some extent I agree with James. Let's see what happens. Is there any urgent reason why we should alter anything at the moment? I am sure the government will get around to providing the steer soonish, but I hope its first concern is to sort out the economy."

Effect on Strategic Aims

18. Commitment to being a listening council: The Standards Committee understands the importance of a timely and fair assessment of an allegation of misconduct and demonstrates this through balanced appointments to panels, taking into consideration committee members' preferences, availability and training.

19. Commitment to making South Cambridgeshire a place in which residents feel proud to live: As above, it benefits the community to have a swift but balanced decision made about any allegations of misconduct.
20. Commitment to providing a voice for rural life: It is a legislative requirement that a Parish Council member of the Standards Committee be involved during any meetings concerning parish council matters, allowing the local knowledge and experience of the role of parish councillor to inform decisions.

Conclusions / Summary

21. A table is attached (**Appendix A**) showing panel membership, based on the preferences expressed by members who responded to the consultation e-mail.

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

Standards Committee (England) Regulations 2008
Reports to Standards Committee on Panel Membership Appointments, June 2009
and June 2010

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