

SC/015/09

Committee Standards Committee

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Sub-Committee Terms of Reference

1. Purpose of the Report

To revisit and amend the terms of reference for the Review and Assessment Sub-Committees and to agree terms of reference for the hearings sub-committee.

2. Terms of Reference

Proposals for the amendments to the sub-committees for assessment and review are attached as Annex 1. Members will note that they reflect the change to include the Fire Authority and also amend the terms for the assessment sub-committee to confirm that this committee will receive investigation responses in the first instance before referral if necessary to the Hearing Sub-Committee.

Where the Monitoring Officer's investigation concludes that there has not been a failure to observe the Code of Conduct, the Regulations provide for the Monitoring Officer's report to come before the Standards Committee (or a sub-committee of the Standards Committee) which then decides whether it accepts that conclusion, or whether it wishes to conduct a formal hearing. It would be appropriate for the Assessment Sub-Committee to consider the outcome of the Monitoring Officer's investigation.

Where the Monitoring Officer's investigation concludes that there has been a failure to observe the Code of Conduct, the Sub-Committee can decide to send it for a local hearing or to send it to a Case Tribunal. Given that the maximum local sanction is now increased to six months' suspension, and the Monitoring Officer has the opportunity to refer the matter to the Standards Board at any stage prior to the completion of the investigation, the number of matters, which will require to be referred to the Case Tribunal by the Sub-Committee, will be very limited.

Once the decision has been taken for a local hearing, the Monitoring Officer will then undertake the pre-hearing process, and a Hearings Sub-Committee will then conduct the hearing.

3. Recommendation

- 1) That the new terms of reference are adopted contingent in the case of those that relate to the Fire Authority upon the adoption of the Joint Committee proposal by that Authority.
- 2) That the functions of determining whether to accept the Monitoring Officer's finding of no breach, or to go to a local hearing, or to refer the matter to a Case Tribunal where the Monitoring Officer's finding is that there has been a breach, be delegated to the Assessment Sub-Committee.

TERMS OF REFERENCE FOR THE ASSESSMENT SUB-COMMITTEE

Terms of Reference

1. The Assessment Sub-Committee will receive allegations that a Member of Essex County Council or of the Essex Fire authority may have failed to comply with their respective Codes of Conduct.
2. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
 - (i) refer the allegation to the Monitoring Officer, with an instruction that they undertake a formal investigation of the allegation, or directs that they arrange training, conciliation or such appropriate alternative steps as permitted by the Regulations;
 - (ii) refer the allegation to the Standards Board for England;
 - (iii) decide that no action should be taken in respect of the allegation; or
 - (iv) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a Member of another relevant Authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant Authority

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.

3. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
 - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
 - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
 - iii. the matter should be referred to the Adjudication Panel for determination.
4. Where the Sub-Committee resolves to recommend any of the actions set out in paragraph 2 or 3 above, the Sub-Committee shall state its reasons for that decision.

Composition of the Assessment Sub-Committee

5. The Referrals (Assessment) Sub-Committee shall comprise three Members of whom one shall be an Independent Member of the Standards Committee who shall chair the Sub-Committee.

Quorum

6. The quorum for a meeting of the Sub-Committee shall be three Members. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the

Monitoring Officer is authorised, after consultation with the Chairman, to select a substitute Independent Member to chair the Sub-Committee as necessary.

Frequency of Meetings

7. The Sub-Committee shall agree a programme of meetings including one meeting per calendar month, but shall only meet where one or more allegations has been received which require to be assessed at that meeting.

TERMS OF REFERENCE OF THE REVIEW SUB-COMMITTEE

1. The Review Sub-Committee will review, upon the request of a person who has made an allegation, a decision of the Assessment Sub-Committee that no action be taken in respect of that allegation that a Member of Essex County Council or of the Essex Fire Authority has failed, or may have failed, to comply with the Code of Conduct.
2. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
 - (i) refer the allegation to the Monitoring Officer, with an instruction that they undertake a formal investigation of the allegation, or specifies that they take an alternative action as permitted by the Regulations;
 - (ii) refer the allegation to the Standards Board for England;
 - (iii) decide that no action should be taken in respect of the allegation; or
 - (iv) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a Member of another relevant Authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant Authority;and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.
3. Where the Sub-Committee resolves to do any of the actions set out in paragraph 2 above, the Sub-Committee shall state its reasons for that action.

Composition of the Review Sub-Committee

4. The Review Sub-Committee shall comprise three Members, of whom one shall be an Independent Member of the Standards Committee who shall chair the Sub-Committee.

Quorum

5. The quorum for a meeting of the Sub-Committee shall be three Members. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the Monitoring Officer is authorised, after consultation with the Chairman, to select a substitute Independent Member to chair the Sub-Committee as necessary.

Frequency of Meetings

6. The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Assessment Sub-Committee within three months of the receipt of the request for such a review from the person who made the allegation.

Proposed Terms of Reference of the Standards Committee's Hearings Sub-Committee

1. Terms of Reference

The Hearings Sub-Committee is established to consider allegations that a Member of the Council or of the Essex Fire Authority has failed, or may have failed, to comply with their respective Authority's Code of Conduct, following the decision by the Assessment Sub-Committee to progress the matter to a hearing.

2. Composition of the Hearings Sub-Committee

The Hearings Sub-Committee shall comprise three Members, of whom one shall be an independent community member of the Standards Committee who shall chair the Sub-Committee and the other two shall be members of the Standards Committee.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be three members, of whom one shall be an independent community member who will chair the meeting, and at least one elected member of the Standards Committee.

4. Frequency of Meetings

The Hearings Sub-Committee shall meet as and when required.