

**Meeting:** Standards Committee

**Date:** 19 December 2002

**TERMS OF REFERENCE OF THE STANDARDS COMMITTEE**

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**1 PURPOSE**

To consider extending the terms of the reference of the Standards Committee.

**2 BACKGROUND**

2.1 The last meeting of this Committee considered an initial report on extending its terms of reference and requested the Borough Solicitor to explore in more detail the possibility of adding the following matters:-

2.1.1 Audit and regulatory matters

2.1.2 Monitoring of the Council's Constitution

2.1.3 Ombudsman complaints

2.1.4 Officer's Code of Conduct

2.1.5 Protocols and non-statutory codes

2.1.6 Complaints procedures

2.1.7 Auditing the Register of Members' Interests.

2.2 The current Terms of Reference of this Committee (reproduced in the Annex to this report) are statutory, which means that they are not matters which the Council has chosen to delegate. However, any further extension of the Committee's functions, unless they are incidental to the existing terms, will be at the discretion of the Full Council.

2.3 Secondary legislation is anticipated which will further extend the statutory function of the Committee.

### **3 DETAILS**

#### **3.1 General**

It is possible for matters to be referred to committees for comments or recommendations without the Committee in question having any decision making power in relation to that matter.

3.1.2 Alternatively, committees may have authorities to deal with one aspect of a particular function.

3.1.3 Although not considered in the last report, it may be useful for the Committee to be given authority to deal with any matters referred to it by the Council, the Executive or any Committee of the Authority.

#### Draft Terms of Reference

*Dealing with any matters referred from the Full Council or any other body.*

#### **3.2 Audit and regulatory matters**

3.2.1 This covers a wide range of functions and the Council already has established a joint committee with Uttlesford District Council for internal audit issues. Both external and internal audit have a large component dealing with the Council's finances and it may not be considered appropriate for this Committee to examine financial issues.

3.2.2 However, good governance and ethical standards are also now established components external audit's role and these would appear to fall within or be incidental to the scope of the Standards Committee's existing terms of reference. This by implication is confirmed by District Audit who have referred the Council to a model form of good governance audit which clearly identifies a leading role for standards committees. Another report on today's agenda deals with this area in more detail.

#### Draft terms of reference

*To consider reports and other communications from external and internal audit relating to good governance and the ethical standards of the Authority. Without any limitation on the statutory powers of the Standards Committee to make recommendations to the Executive or a Committee of the Council following such consideration.*

#### **3.3 Monitoring the Constitution**

3.3.1 The adoption of a 'Constitution' being a single comprehensive document containing all the formal and informal rules governing the internal working of Local Authorities is a new development under the Local Government Act 2000. This Committee is already directly or indirectly concerned with a number of these arrangements, in particular the Code of Conduct and the good governance audit will make some reference to the constitution. Many aspects of the Constitution will, and must legally, remain matters to be dealt with by the full Council but from time to time the Standards Committee may be asked or may choose to consider constitutional issues.

#### Draft Terms of Reference

*To Review aspects of the Constitution relating to other terms of reference for this Committee including matters covered by the ethical governance audit.*

### 3.4 **Ombudsman references and complaints procedure**

- 3.4.1 There have been no findings of maladministration against the Council and, as a result, Ombudsman's investigations have tended to be concerned with the standards of service delivery, rather than ethics and probity. However, it might be appropriate to consider annual reports, and communications from the Ombudsman as they relate to ethical standards and good governance.

#### Draft terms of reference

*To receive and consider general reports and communications from the Ombudsman and, at the discretion of the Committee, to report and make recommendations to the appropriate body*

### 3.5 **Officers' Code of Conduct**

- 3.5.1 The Members will be aware that a statutory Code of Conduct for officers is being assembled by the Government and a draft has been anticipated for over a year. It is not yet clear whether the Code, which will be incorporated by law into all officers' contracts, will have discretionary elements or not. There is, however, a strong argument that, as this Committee considers the ethical standards of Members, it should also consider those of officers as well, in order to promote the consistency of ethical standard throughout the Authority. To the extent that the Code may have discretionary elements, the Council may wish to delegate these to this Committee. A code of behaviour for officers, which includes requirements as to declarations, already exists and it may also be appropriate for this Committee to review those arrangements.
- 3.5.2 Where, however, there are breaches of any statutory or other code by officers, those may involve disciplinary action. These would usually be dealt with by officers

#### Draft terms of reference

*To review and make recommendations on protocols and employment contract conditions dealing with ethical standards for officers' behaviour.*

### 3.6 **Protocols and non-statutory codes**

- 3.6.1 Members of this Committee are already aware of the status of voluntary protocols and their relationship with the Code of Conduct and it would, therefore, appear appropriate that they should scrutinise as any such protocol whether or not any other committee has duties to consider them.

#### Draft terms of reference

*To consider and make recommendations as appropriate on all protocols affecting the conduct of Members and officers.*

### 3.7 **Auditing the register of members' interests**

- 3.7.1 This may already fall within the discretion of this Committee but even if it does not, it is highly relevant to its statutory functions.

#### Draft terms of reference

*To review the register of members' interests at such times and in such a manner as the Committee feels appropriate.*

#### **4 IMPLICATIONS**

These are contained in the body of the report.

#### **5 RECOMMENDATIONS**

- 5.1 That the Council is invited to extend the terms of reference of the Standards Committee to cover the matters set out in paragraphs 5.1.1 to 5.1.7 below, subject to any minor textual changes considered necessary or desirable.
  - 5.1.1 Dealing with any matters referred from the Full Council or any other body.
  - 5.1.2 To consider reports and other communications from external and internal audit relating to good governance and the ethical standards of the Authority. Without any limitation on the statutory powers of the Standards Committee to make recommendations to the Executive or a Committee of the Council following such consideration.
  - 5.1.3 To Review aspects of the Constitution relating to other terms of reference for this Committee including matters covered by the ethical governance audit.
  - 5.1.4 To receive and consider general reports and communications from the Ombudsman and, a discretion of the Committee, to report and make recommendations to the appropriate body.
  - 5.1.5 To review and make recommendations on protocols and employment contract conditions dealing with ethical standards for officers' behaviour.
  - 5.1.6 To consider and make recommendations as appropriate on all protocols affecting the conduct of Members and officers.
  - 5.1.7 To review the register of members' interests at such times and in such a manner as the Committee feels appropriate.

## ANNEX A

### STANDARDS COMMITTEE – EXISTING TERMS OF REFERENCE

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer.