

CITY OF PLYMOUTH

Subject: Terms of Reference – Standards Hearing Sub-Committee
Committee: City Council
Date: 5 July 2010
Cabinet Member: Councillor Bowyer
CMT Member: Director for Corporate Support
Author: Tim Howes - Council's Monitoring Officer
Contact: tim.howes@plymouth.gov.uk
Telephone (01752)305403
Ref: TH/SC
Part: 1

Executive Summary:

The Standards Committee have amended the terms of reference of their Hearings Sub-Committee. There will be, where possible, five members and a quorum of three, with an Independent Chair. Further, in line with guidance from Standards for England, members who previously sat on the Assessment or Review Sub Committee of the same complaint are able to sit on the Standards Hearing Sub-Committee. Whilst this change is already effective, Council needs to agree the change to the Constitution.

Corporate Plan 2010 - 2013:

There are no direct links to the Corporate Plan.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

There are no material implications.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

There are no material implications.

Recommendations & Reasons for recommended action:

Council note and accept the change to the constitution

Alternative options considered and reasons for recommended action:

No alternative options have been considered because the substantive decision has already been taken by the Standards Committee. The only outstanding issue is the formal change to the constitution.

Background papers:

Minute 14 of the Standards Committee of the 10th March 2010

Sign off:

Fin	CeSF10 110001	Leg	TH 005	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member Tim Howes											

1.0 Background

- 1.1 On the 10th March the Standards Committee altered the terms of reference of its Hearings Sub-Committee to become:

Membership of the Hearings Sub Committee is to comprise, where possible, five members from the Standards Committee and have a quorum of three members. The Chair will be an independent member of the Standards Committee. In line with guidance from Standards for England, members who previously sat on the Assessment or Review Sub Committee of the same complaint are able to sit on the Standards Hearing Sub Committee.

- 1.2 This matter came before Council on the 26th April 2010 where an amendment to the decision of the Standards Committee was put forward. Following an adjournment, it was resolved:

That consideration of the proposed terms of reference of the Standards Hearing Sub-Committee (Standards Committee minute 14 refers) is deferred, pending cross party discussion, following written legal advice.

- 1.3 The written legal advice was as follows:

Section 53 of the Local Government Act 2000 requires the Council to establish standards committees, and the format and conduct of those committees (and their sub-committees) is regulated in more detail through statutory instruments.

Under Section 54A of the Local Government Act 2000 a standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the committee. Under Section 54(A) (6), the number of members of a sub-committee and the term of office of those members, are to be fixed by the standards committee by which the sub-committee is appointed.

Given the above, the Council has no authority to change the decision of the standards committee on the form and composition of the sub-committee (but obviously does have authority to appoint the standards committee itself).

This does of course beg the question of why the report was brought to Council in the first place. The reason this was done was to amend the terms of reference in the constitution, so that the decision of the Standards Committee is reflected in the constitution. Presently, amendments to the constitution have to go through Council. In the re-drafted constitution I will be recommending that administrative amendments and legal changes do not have to go to Council for approval.

Given the above, the report will come back to a future Council meeting, but in the meantime, the decision of the Standards Committee on the make up of the Standards Hearing Sub-Committee remains valid albeit that it does not accord with the constitution. This is because the general law takes precedence over the constitution.

- 1.4 A cross party discussion would serve no useful purpose given the legal advice and therefore this issue has been brought back to Council for the amendment to the constitution to reflect the decision of the Standards Committee.