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## Report of the Assistant Chief Executive (Corporate Governance)

### Standards Committee

Date: 16<sup>th</sup> December 2008

Subject: Membership of the Standards Committee

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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### Executive Summary

1. The purpose of this report is to outline the difficulties with the current membership of the Standards Committee, and to make proposals to resolve these difficulties. This report provides two options for increasing the overall membership of the Committee, and also proposes substitute arrangements for the Leeds City Council Members on the Committee.
2. There are two options open to the Council to increase the overall membership of the Standards Committee:
  - One additional Parish or Town Councillor could be appointed; or
  - One additional Parish or Town Councillor and one additional Independent Member could be appointed.
3. To resolve the difficulties of Leeds City Council Members on the Standards Committee, it is proposed that a pool of trained substitutes could be created which Members could call on to attend full Committee meetings, and Assessment and Review Sub-Committee meetings, on their behalf.
4. Members of the Standards Committee are asked to:
  - Consider the proposed options to address the difficulties with the current membership of the Committee;
  - Consider the comments from Member Management Committee on the Standards Committee membership;
  - Recommend their preferred membership option to the General Purposes Committee; and
  - Consider whether to ask the Leader of the Council to ask the Independent Remuneration Panel (when they next review the Members' Allowances Scheme) to review the allowances payable to the Parish and Town Council Members of the Standards Committee in light of their increased activity.

## **1.0 Purpose of this Report**

- 1.1 The purpose of this report is to outline the difficulties with the current membership of the Standards Committee, and to make proposals to resolve these difficulties. This report provides two options for increasing the overall membership of the Committee, and also proposes substitute arrangements for the Leeds City Council Members on the Committee.

## **2.0 Background information**

- 2.1 Regulations state that the Standards Committee must have a membership of at least three people. It must include two Members of the authority and at least one Independent Member (a non-elected voting co-optee). At least 25% of the Members of the Standards Committee must be Independent Members, and an Independent Member must chair the meetings. If an authority has executive arrangements, the Standards Committee may include one Executive Member, but not the elected Mayor or Leader.
- 2.2 The Standards Board for England recommend that an authority has at least six Members on its Standards Committee. This is to avoid conflicts of interest when carrying out different functions. The Standards Board also recommend that if an authority is responsible for any parish or town councils, at least two representatives from those parish or town councils are appointed to the Standards Committee (these cannot also be Members of the principal authority). A parish or town council representative must sit on the Standards Committee at all times when parish matters are being discussed.
- 2.3 In Leeds, the Standards Committee is currently made up of five City Councillors (one from each of the political groups), three Independent Members, and two Parish Councillors.
- 2.4 Since 8<sup>th</sup> May 2008 the Standards Committee in Leeds has had the responsibility for the initial assessment of any complaints made about the conduct of Leeds City Councillors or Parish and Town Councillors in the Leeds area. They are also required to review any decisions to take no action on a complaint, if the complainant requests that they do so.
- 2.5 The Standards Committee (England) Regulations 2008 require each Standards Committee to establish at least two sub-committees to carry out these functions. Therefore the Standards Committee in Leeds has established an Assessment Sub-Committee and a Review Sub-Committee. Both of these Sub-Committees have a total membership of four, which is comprised of:
- 1 Independent Member (who must Chair);
  - 2 City Councillors; and
  - 1 Parish Member (who is only required when the Assessment or Review Sub-Committee are considering a complaint about a Parish or Town Councillor).
- The quorum of these Sub-Committees is three.
- 2.6 The Regulations also state that the same Members cannot sit on the Assessment Sub-Committee and the Review Sub-Committee when considering the same case. Therefore in Leeds at least eight Members are required to fulfil the requirements set out above.

### **3.0 Main Issues**

#### Issues with the current membership of the Standards Committee

##### Parish and Town Council Councillors

- 3.1 In order to deal with complaints about Parish and Town Councillors in Leeds, the Standards Committee must contain at least two Parish representatives: one to sit on the Assessment Sub-Committee, and another to sit on the Review Sub-Committee (in case the complainant requests a review of the decision). However, the current membership of two does not allow for any potential personal and prejudicial interests which may arise. If one of the Parish representatives were to be prevented from taking part in the decision due to a conflict of interest, the Standards Committee would be unable to carry out any review of that decision, and the matter would have to be referred to the Standards Board for England. For this reason, in their guidance on the role and make-up of standards committees, the Standards Board for England have recommended that the minimum number of Parish and Town Councillors on a Standards Committee should be three.
- 3.2 Therefore the Standards Committee have already recommended that an additional Parish and Town Councillor is appointed to the Standards Committee as soon as possible<sup>1</sup>.
- 3.3 Currently, the Parish and Town Councillors are entitled to an co-optee's allowance of £557, whereas the Independent Members are entitled to an allowance of £2,310. These amounts were reviewed in September this year to take account of the new local assessment arrangements, and the new chairing responsibilities given to the Independent Members of the Standards Committee.
- 3.4 However, the Parish and Town Council Members of the Standards Committee have been called on regularly to form the quorum for Assessment and Review Sub-Committees, despite only being required when the case under consideration relates to a Parish or Town Councillor. Indeed, only two of the twelve complaints received to date has been made in relation to a Parish or Town Councillor, but one of the Parish and Town Council Members of the Standards Committee has been involved in assessing every case so far, and in eight of these cases has been present in order for the meeting to be quorate. In addition, the Parish and Town Council Members have recently been involved in the research project through Cardiff University, the review of Parish and Town Council training through Member Development, and in the outcomes of the Parish and Town Council Annual Audit.
- 3.5 The Standards Committee are asked to consider whether they would like to ask the Leader of the Council to ask the Independent Remuneration Panel (when they next review the Members' Allowances Scheme) to review the allowances payable to the Parish and Town Council Members of the Standards Committee in light of their increased activity.

##### Independent Members

- 3.6 There are also potential difficulties with the number of Independent Members on the Standards Committee. There are currently three Independent Members on the Standards Committee in Leeds, and therefore there are enough Members to chair each stage of the complaints process and to have a substitute Member in case of

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<sup>1</sup> Minute 11 of Standards Committee meeting on 1<sup>st</sup> July 2008.

any conflicts of interest. However this does not allow for long periods of absence, or sudden resignations (as was experienced in Leeds in October 2007).

- 3.7 The Assessment Sub-Committee only has 20 working days following receipt of a complaint to hold a meeting to consider that complaint. As there are only three Independent Members, and they are required to chair these meetings, there is a large expectation on them in terms of their time commitment to the Standards Committee.
- 3.8 However, the Standards Committee (England) Regulations 2008 do allow Standards Committees to use a substitute Independent Member from another authority, if all their Independent Members are unavailable. These appointments can be made to cover a period of illness or absence, or simply to conduct one local assessment or hearing. Such appointments do not need to be advertised or ratified by the majority of Members of the authority (i.e. the appointment does not need to be approved by Full Council). Members should note that Leeds City Council has no procedures in place at the current time to do this.
- 3.9 By mid October 2008 ten complaints have already been considered by the Assessment Sub-Committee, which have required three separate meetings. In addition, the Review Sub-Committee has made arrangements to consider two separate review requests. This has required two separate meetings. Assuming the Standards Committee receive the same number of complaints as were previously made to the Standards Board for England, this would mean a total of 30 (including complaints about Parish and Town Councillors in Leeds) for the municipal year. In addition, Standards Committees could reasonably expect to receive more complaints due to the amount of local advertising which has to undertaken on a regular basis. Unless these complaints are received relatively close together, this could mean several meetings over the course of the year.
- 3.10 There are fewer Independent Members of the Standards Committee than City Councillors on the Committee, and if Full Council agree to the number of Parish Councillors on the Standards Committee being increased to three, the percentage of Independent Members on the Standards Committee would decrease to 27% (only just above the statutory 25%).
- 3.11 One final issue is the restrictions which are placed on Independent Members by the Standards Board for England, who recommend that Independent Members should only be appointed for a term of four years, and that they should serve no more than two terms. Therefore the current Chair of the Standards Committee must retire by the Annual Meeting in 2010. Given this situation, it may be of assistance to the Standards Committee to recruit an additional Independent Member to maintain a wide skills base of Independent Members of the Committee.

#### Leeds City Council Members

- 3.12 There are currently five Leeds City Councillors on the Standards Committee, one from each of the political groups. There are three Councillors from the three largest political groups, and one each from the Morley Borough Independent and the Green groups. At the moment the Leeds City Councillors make up 50% of the Standards Committee membership.
- 3.13 However since the start of the new arrangements, officers have experienced difficulties with securing speedy availability of Leeds City Council Members to attend Assessment and Review Sub-Committee meetings. The quorum for each of the

Sub-Committees is three Members, which must include an Independent Member (who must chair the meeting), and must include a Parish or Town Councillor if the complaint relates to a Parish or Town Council. If the complaint is not made in connection to a Parish or Town Council, the other two members of the Sub-Committee can be Leeds City Councillors. So far, the quorum of three has been made up by a Parish Councillor on more than one occasion, even though no allegations about Parish or Town Councillors were considered and therefore they were not statutorily required to attend the meeting.

- 3.14 The difficulties in securing availability of some Members of the Standards Committee has led to some individual Members of the Committee contributing a significant amount of their time (compared to their colleagues) to the process to ensure that meetings are held within statutory deadlines.<sup>2</sup>
- 3.15 According to their guidance on the role and make-up of standards committees, the Standards Board for England does not recommend the use of substitutes for elected Members on Standards Committees. This is because Standards Committees are not intended to operate along party political lines and therefore it is not necessary to ensure a political balance.
- 3.16 However, a review of 14 other Standards Committees (including the Core Cities) shows that two of these operate substitute arrangements from a defined pool of trained Members. These are York City Council, who have a pool of seven elected Members, and North Yorkshire County Council who have three named substitutes, one for each political group.
- 3.17 The Standards Board for England have been contacted for further advice on the issue of substitutes. They have confirmed that they do not recommend the use of substitutes on standards committees in case of any appeals, although they admit that there is nothing in legislation to say that substitutes are not permissible. Also, although the guidance which does not recommend the use of the substitutes states it is statutory, the issue of elected membership on standards committees is not properly covered in the regulations. The Standards Board are aware that some local authorities do have substitutes on their standards committees as there is nothing to prevent this. Finally, the Standards Board agree that the method of having a defined pool of trained substitutes would be better than having anyone eligible to attend the meeting as a substitute, as this will ensure some consistency of membership.

#### Review of the Core Cities and other Councils

- 3.18 A review of 14 other Standards Committees (including the Core Cities) shows that Leeds City Council's current Standards Committee has an average overall size:

<b>Council</b>	<b>Total number of Members on the Standards Committee</b>
Bristol	7
North Yorkshire	9
Liverpool	8
Sheffield	8

<sup>2</sup> The Assessment Sub-Committee must meet to consider an allegation within 20 working days, and the Review Sub-Committee must meet within three months of receiving the review request. However the Standards Committee decided at their meeting on 1<sup>st</sup> July 2008 (minute 11) that the Review Sub-Committee would also aim to meet within 20 working days, whenever possible, as a point of good practice.

Birmingham	10
Nottingham	10
Scarborough	10
<b>Leeds</b>	<b>10</b>
Manchester	11
York	11
Kirklees	13
Newcastle	13
Bradford	14
Wakefield	14
Calderdale	15

3.19 The percentage of Independent Members on Leeds City Council’s Standards Committee is currently 30%. However, a review of the make up of these Standards Committees shows that only four other Councils have the same or a smaller percentage of Independent Members on their Standards Committee. These are Bradford (29%), Wakefield (29%), Manchester (27%) and Sheffield (25%).

3.20 The most common number of Independent Members amongst the 14 Standards Committees is four Independent Members. Eight other Councils have four Independent Members on their Standards Committees. These are Wakefield, Scarborough, York, Birmingham, Newcastle, Bristol, Bradford and Nottingham.

3.21 Only three Standards Committees have a higher number of Independent Members, these are Liverpool (who have six Independent Members) and Kirklees and Calderdale (who both have five Independent Members).

3.22 However, it is quite common for the Councillors on a Standards Committee to ‘outnumber’ the Independent Members. Indeed, only four of the Councils listed above have an equal or smaller number of Councillors to Independent Members. Leeds City Council Members currently account for 50% of the overall membership of the Standards Committee.

Proposed changes to the Standards Committee membership

3.23 Two possible options to increase the overall membership of the Standards Committee are outlined below.

Options	Overall Committee size		Independent Members	Parish or Town Councillors	Leeds City Councillors	Resource Implications
<i>Current Position</i>	10	<i>Number</i>	3	2	5	<i>Not applicable</i>
		<i>%</i>	30%	20%	50%	
Option One	11	Number	3	3	5	£557 per annum <sup>3</sup>
		%	27%	27%	45%	
Option Two	12	Number	4	3	5	£2867 per annum <sup>4</sup>
		%	33%	25%	42%	

<sup>3</sup> This is the Special Responsibility Allowance for one additional Parish or Town Councillor.

- 3.24 Both of these options could be implemented alongside a substitute system for Leeds City Councillors on the Standards Committee, to address the remaining issues highlighted in this report. It is proposed that a pool of Members be identified (one from each political group) who would be eligible to substitute for their group colleague. Care would need to be taken in defining the pool as regulations provide that only one Executive Member may be present at a Standards Committee meeting.
- 3.25 As outlined in paragraph 3.14, the Standards Board for England have advised that they would prefer any substitutes on the Standards Committee to be fully trained. The guidance on the role and make-up of standards committees also states that the Standards Board recommend that an induction programme should be provided for new independent members. This induction programme should include training on the Code of Conduct, attendance at other Committee meetings, and may include a mentoring system. The Standards Committee have agreed such an induction programme for new independent members of the committee, and have a training plan for all Members which is kept under review on the regular basis. This training plan is attached as Appendix 1.

#### Consultation route

- 3.26 Leader Management Team considered this report on Thursday 30<sup>th</sup> October. Member Management Committee considered the report on Tuesday 18<sup>th</sup> November.
- 3.27 Member Management Committee were supportive of proposals for the creation of a pool of trained elected Members who could act as substitutes for full Standards Committee meetings and Assessment and Review Sub-Committee meetings. Member Management Committee were of the view that the introduction of a similar pool of Parish and Town Council Members be investigated to help alleviate issues relating to conflicts of interest (outlined in paragraph 3.1).
- 3.28 However should this prove impossible, Member Management Committee were of the view that if the numbers of Parish and Town Council Members needed to be increased then so should the number of Leeds City Council Members. Member Management Committee also considered that a further proposal for the membership of the Standards Committee be brought forward for consideration by the General Purposes Committee whereby the Independent Membership of the Committee form no more than 25% of the overall membership.
- 3.29 The options in the report, and the recommendation made by the Standards Committee, will be considered by General Purposes Committee, and finally agreed by Full Council.

## **4.0 Implications for Council Policy and Governance**

- 4.1 The changes to the Standards Committee membership will require amendments to Article 9 of the Council's Constitution, as paragraph 9.3.1 of the Article outlines the membership of the Standards Committee.

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<sup>4</sup> This is the combined Special Responsibility Allowance for one additional Parish or Town Councillor and one additional Independent Member.

## **5.0 Legal and Resource implications**

- 5.1 The Parish Members of the Standards Committee currently receive an allowance of £557 per annum. The Independent Members receive an allowance of £2,310 to reflect their additional responsibilities with regard to chairing meetings of the Assessment and Review Sub-Committees, and the Chair of the Standards Committee receives a co-optees' allowance of £6,929. These increases were agreed by Full Council at their meeting on 10<sup>th</sup> September 2008.
- 5.2 Standards Committee have been asked to consider recommending that the allowances payable to the Parish and Town Councillors on the Committee are reviewed to take account of their increased role in light of the local assessment arrangements and other projects.

## **6.0 Conclusions**

- 6.1 There are two options open to the Council to increase the overall membership of the Standards Committee:
- One additional Parish or Town Councillor could be appointed; or
  - One additional Parish or Town Councillor and one additional Independent Member could be appointed.
- 6.2 To resolve the difficulties of Leeds City Council Members on the Standards Committee, it is proposed that a pool of trained substitutes could be created which Members could call on to attend full Committee meetings, and Assessment and Review Sub-Committee meetings, on their behalf.

## **7.0 Recommendations**

- 7.1 Members of the Standards Committee are asked to:
- Consider the proposed options to address the difficulties with the current membership of the Committee;
  - Consider the comments from Member Management Committee on the Standards Committee membership;
  - Recommend their preferred membership option to the General Purposes Committee; and
  - Consider whether to ask the Leader of the Council to ask the Independent Remuneration Panel (when they next review the Members' Allowances Scheme) to review the allowances payable to the Parish and Town Council Members of the Standards Committee in light of their increased activity.

## **Background documents**

The Standards Committee (England) Regulations 2008

"Local Assessment of Complaints" by the Standards Board for England

"The role and make-up of Standards Committees" by the Standards Board for England

Various Council websites as listed above