

EAST HERTS COUNCIL

ANNUAL COUNCIL – 18 MAY 2016

REPORT BY CHIEF EXECUTIVE

CHANGES TO AUDIT AND STANDARDS COMMITTEE
ARRANGEMENTS

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- This report seeks to review the current Council committees relating to Audit and Standards.
- To review the current procedure for initial assessment by the Standards Committee
- To confirm the appointment of the Monitoring Officer and the Deputy Monitoring Officer under the new management arrangements within the authority.

<u>RECOMMENDATIONS FOR ANNUAL COUNCIL:</u> That:	
(A)	the Council establishes a new Committee called the Audit and Governance Committee;
(B)	the terms of reference of the new Committee will combine the existing remit of the Audit Committee and the Standards Committee as set out at Essential Reference Paper 'D';
(C)	the Committee will consist of 10 Members drawn from the current Membership of the Standards Committee and the Audit Committee;
(D)	the revised procedure for dealing with complaints against Members as set out at Essential Reference Paper 'E' be approved;
(E)	the Head of Legal and Democratic Services be confirmed as the Monitoring Officer and the Legal Services Manager as the Deputy Monitoring Officer; and

(F)	the Council's Constitution is amended immediately to give effect to the changes.
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1.0 Background

- 1.1 Under the Localism Act, councils are placed under a duty 'to promote and maintain high standards of conduct'. There is no longer a legal requirement as there was in the past to have a stand-alone standards committee. However, in practice all councils have given responsibility for standards issues either to a dedicated committee as previously, or else as part of the remit of another committee, such as combined with its audit committee
- 1.2 There is no legal requirement to have an audit committee although it is strongly encouraged by external auditors and is long recognised as a matter of good practice as a forum for overseeing the internal audit and considering the annual statement of accounts. The Council's Audit Committee also currently has a general oversight role in relation to the wider governance of the authority.

2.0 Audit and Governance Committee

- 2.1 The Council's Audit Committee currently has seven members and has the remit set out in **Essential Reference Paper B**. The Council's Standards Committee has 5 Member and has the remit set out in **Essential Reference Paper C**. The Standards Committee has not met since 2012, shortly after the legislative changes in the Localism Act took away the requirement to have a Committee. However as the responsibility still exists to deal with complaints against District Council Members and Parish Members this is carried out through the sub-committee of the Standards Committee. Whilst the Sub-Committee has met regularly the Committee itself has not.
- 2.2 Given that the governance responsibility of the Council which arguably includes responsibility for high standards of conduct, sits with the Audit Committee, this is not surprising. Following the legislative changes some authorities took the view that combining the Standards Committee with the Audit Committee to provide a single Audit and Governance Committee would avoid any confusion and give added strength to the Committee and its work. The requirement to appoint parish and independent members to the Standards Committee was removed by the Localism Act which

allowed for the merge without complication.

- 2.3 A Standards Sub-Committee could continue to meet as a Sub-Committee of an Audit and Governance Committee.
- 2.4 It is proposed that the merging of the two committees should take place with the merged terms of reference set out at **Essential Reference Paper 'D'**. It is also proposed that the membership of the committee should be increased to 10 to allow for some of the Members experienced in dealing with Member complaint hearings to join the committee and carry out any sub-committee pending the training of the wider Audit Members.

3.0 Procedure for Dealing With Complaints Against Members

- 3.1. The Localism Act 2011 also brought about changes to the way in which complaints against Members could be conducted. Previously complaints were required to be referred to a panel of Members and were required to be dealt with in private to protect the reputation of the Member until it could be decided whether or not there was a case to answer and the matter should be investigated. Under the changes this initial decision could be taken by the Monitoring Officer and in the great majority of Councils this has been the practice since that time. There are a small number including East Herts who place the initial complaint before a panel of Members.
- 3.2. Evidence has shown that where this initial decision is delegated to the MO it allows for swift decision making and is particularly appropriate for ensuring that more 'minor' matters are dealt with proportionately and effectively. Most councils, as East Herts does, will seek the Independent Person's views at this stage of the process. Only a few councils still have a process in which all complaints are referred to a panel of members, but experience of independent analysts of standards investigations has shown that this, if done as routine, slows down the process unnecessarily and seldom in any case leads to different decisions being taken than occur elsewhere for similar matters.
- 3.3. Where, as in East Herts, these decisions are taken in a public forum it publishes the existence of a complaint before there has been any consideration of whether there is any merit in the complaint. This can be prejudicial to a Member eg standing for election where the investigation may take several months to complete.

3.4. It is proposed that East Herts adopt a new process, in line with all the other districts in Herts and the majority of Councils nationally, of allowing the Monitoring Officer to consider a complaint in consultation with the Independent Person. Where there is merit in the complaint and it requires to be referred for investigation this will be done in private without publication of the complaint, until the investigation report is complete. At that stage, if it is the investigating officer's view that there is a case to answer the report will be referred to a panel of Members and the investigation report will be made public. The Sub-Committee hearing will be conducted in accordance with the current procedure and Members will be in a position to reach the conclusions in relation to the complaints as they do currently.

3.5. A revised procedure which adopts this approach is attached to this report at **Essential Reference Paper 'E'**.

4.0 Appointment of the Monitoring Officer

4.1 A report was presented to Council in November 2015 which appointed Head of Legal and Democratic Services (then Jeff Hughes) as the Monitoring Officer. Members are requested to confirm that appointment continues to be to the Head of Legal and Democratic Services whoever the post holder is. The post has more recently been held on an interim basis by Catherine Whitehead with effect from 11th April 2016 and will be held on a permanent basis by Michael Rowan with effect from 31st May 2016.

5.0 Implications/Consultations

5.1 The Members of the Standards Committee have been consulted.

Background Papers

None

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