

Report Considered by Standards Committee – 23 September 2009

STANDARDS COMMITTEE – ARTICLE 9 OF THE CONSTITUTION

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1. Purpose

1.1 To recommend the amendment of Article 9 of the Constitution concerning the Standards Committee.

2. Recommendations

2.1 That the Council be recommended to adopt the draft changes to Article 9 of its Constitution attached as **Annex B**.

3. Issues and Choices

3.1 At its meeting of June 2009, the Committee received details of the statutory instruments giving effect to the latest of the changes to the ethical standards regime introduced by the Local Government & Public Involvement in Health Act 2007. It is intended that these Regulations will be the last for some time directly affecting the Standards Committee.

3.2 Accordingly, the terms of reference of the Committee can now be fully reviewed and updated.

3.3 The current Article 9 of the Constitution is attached as **Annex A**. The key changes from that drafting, as required or proposed here, are

- The setting out of the role of the required Sub-Committees to carry out assessment and those to carry out review of complaints
- The setting out of the role of the Sub-Committees established to carry out the Committee's role to consider and to holding hearings into investigative reports.
- The introduction of functions concerning officers and politically restricted posts

- The recognition of the Committee’s wider role in terms of ethical governance, indirectly impacting on the Members’ Code, as promoted by the Audit Commission and Standards for England in their assessments of the authority.
 - Including direct reference to the differing access to information rules for the Standards Committee and its Sub-Committees
 - Taking the opportunity to simplify the wording used to describe the role and function of the Committee.
- 3.4 The inclusion of reference to a wider role for the Committee in terms of ethical governance is a local choice function for Milton Keynes Council. This aspect of what the Committee might do beyond its core function has an indirect rather than direct impact upon the Members’ Code and would have originally been resisted at Milton Keynes Council. The changes brought about by the move to a local standards regime and a regulatory role for Standards for England, however, have changed the emphasis for this work. In particular, it is recognised that the ethical governance of the authority is reflected from and by the behaviours of Members and, in turn, those processes and culture of ethical governance has a direct bearing on the success and standing of the whole Council.
- 3.5 The additional terms of reference recommended are, therefore, the minimum additional responsibility recognised because
- it reflects current practice at the authority;
 - is considered best practice;
 - is promoted by Standards for England as strategic regulator; and
 - is promoted by the Audit Commission and recognised in their Comprehensive Area Assessments of the authority (and of others through the Councils partnerships)
- 3.6 The proposed changes are set out as **Annex B**

Current Constitutional Extract

ARTICLE 9 - THE STANDARDS COMMITTEE

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

Independent Members

9.2 Composition

(a) Membership

The Standards Committee will be composed of at least:

- two Councillors (other than the Executive Leader);
- one person who is not a Councillor or an officer of the Council or any other body having a Standards Committee (an independent member);
- one member of a Parish Council wholly or mainly in the Council's area (a Parish member);

(b) Independent Members

Independent members will be entitled to vote at meetings.

(c) Parish Member

The Parish member(s) must be present, and is entitled to vote, when matters relating to Parish Councils or their members are being considered.

(d) Chairing the Committee

A Member of the Cabinet may not chair the Committee.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and Church and Parent Governor representatives;
- (b) assisting the Councillors, co-opted members and Church and Parent Governor representatives 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, co-opted members and Church and Parent Governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members and Church and Parent Governor representatives 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;
- (h) the exercise of (a) to (g) above in relation to the Parish Councils in the Borough and the members of those Parish Councils.

ARTICLE 9 - THE STANDARDS COMMITTEE

9.1 *Standards Committee*

The Council meeting will establish a Standards Committee as required under statute.

9.2 *Composition*

(a) *Membership*

The Standards Committee must be composed of at least:

- (i) two Milton Keynes Council Members (one of whom may be a member of the Cabinet but may not be the Cabinet Leader);
- (ii) two Parish Members, a Parish Member being a member of a parish council for which the Standards Committee is responsible but who is not also a member of Milton Keynes Council; and
- (iii) 25% membership of Independent Members, an Independent Member being a person
 - (1) whose appointment is—
 - (aa) approved by a majority of the Members of the authority;
 - (bb) advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;
 - (cc) of a person who submitted an application to the authority; and
 - (2) who is not
 - (aa) a councillor or an officer of this or any other relevant authority;
 - (bb) someone who has within the period of five years immediately preceding the date of the appointment been a member or officer of the authority; or

- (cc) a relative or close friend of a member or officer of the authority.

Independent members will be entitled to vote at meetings.

(b) *Chairing the Committee*

The Committee and Sub-Committees of the Standards Committee must be chaired by an Independent Member.

(c) *Quorum*

A meeting of a standards committee, or sub-committee of a standards committee, shall not be quorate unless

- (i) at least three members of that committee or sub-committee are present for its duration;
- (ii) a Milton Keynes Council Member is present and entitled to vote where matters relating to Milton Keynes Council or its members are being considered; and
- (iii) A Parish Member is present and entitled to vote where matters relating to parish councils or their members are being considered

9.3 *Role and Function*

The Standards Committee will have the following roles and functions in respect of Milton Keynes Council and, where relevant, the Parish Councils wholly or partially within the area of Milton Keynes:

(a) *Main functions*

- (i) to promote and maintain high standards of conduct for members
- (ii) to help members to follow the Code of Conduct

(b) *Specific functions*

- (i) to give the council advice on adopting a local Code

- (ii) to monitor the effectiveness of the Code
 - (iii) to train members on the Code, or arrange for such training
 - (iv) to assess and review complaints about members
 - (v) to conduct determinations' hearings
 - (vi) to grant dispensations to members with prejudicial interests
 - (vii) to grant exemptions for politically restricted posts
 - (viii) to recommend to Milton Keynes Council arrangements for exercising functions jointly with one or more standards committees of other authorities.
- (c) *Additional functions and terms of reference*
- (i) to undertake such other functions as Milton Keynes Council considers appropriate
 - (ii) to consider the arrangements for corporate governance to ensure the maintenance and promotion of good ethical conduct; and
 - (iii) as the Committee undertakes the above roles and functions, to consider any matters that relate to standards of probity and ethical conduct.

The Committee will have regard to the statutory and non-statutory Guidance produced by Standards for England in conducting its role and functions

9.4 Sub-Committees

(a) *Assessment Sub-Committees*

The Standards Committee shall appoint Sub-Committees to discharge the Committee's function to receive and assess a written allegation that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed, or may have failed, to comply with the authority's code of conduct.

(b) *Review Sub-Committees*

The Standards Committee shall appoint Sub-Committees to review a decision made by an Assessment Sub-Committee that no action should be taken in respect of an allegation where the person who made the allegation has made a written request for a review

(c) *Consideration and Hearing Sub-Committees*

The Standards Committee may appoint Sub-Committees to

- (i) consider a report submitted by the Monitoring Officer, or an Ethical Standards Officer of Standards for England, on an allegation referred for investigation and which contains a statement as to his or her findings that there has, or there has not been, a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned; and
- (ii) where it is considered the matter should be determined by a hearing of the standards committee, conduct the Hearing.

A Sub-Committee of the Standards Committee must be chaired by an independent member.

9.5 Access to Information

- (a) Meetings of the Standards Committee shall accord with the Access to Information Procedure Rules set out in Part 4(2) of this Constitution, subject to
 - (i) additional notice requirements which exist in respect of parish councils; and
 - (ii) the application of additional provisions concerning exclusion of public and press.
- (b) Access to Information Procedure Rules set out in Part 4(2) of this Constitution do not apply in respect of meetings of the Assessment and Review Sub-Committees.

9.6 Reference

As may be amended from time to time:

- (a) Part III of The Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007);
and
- (b) The Standards Committee (England) Regulations 2008.

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