

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Standards Committee

7th September 2009

1. APPOINTMENT OF STANDARDS SUB-COMMITTEES

Report of the Monitoring Officer and Clerk to the Authority.

RECOMMENDED

THAT Assessment, Review, Consideration and Hearing Sub-Committees be re-established for 2009/10, with the same terms of reference as in 2008/09, and that members be appointed to those Sub-Committees as set out in Appendix 1.

2. PURPOSE OF REPORT

- 2.1 To ask the Committee to re-establish the Assessment, Review and Consideration and Hearing Sub-Committees for 2009/10.

3. BACKGROUND INFORMATION

- 3.1 It is the function of the Standards Committee each year to appoint Sub-Committees to deal with the assessment and review of complaints about member conduct, and to deal with the outcome of any investigation and/or hearing that may result from a complaint. Three Sub-Committees were established in 2008/09: the Assessment Sub-Committee, the Review Sub-Committee and the Consideration and Hearing Sub-Committee.
- 3.2 Each Sub Committee must comprise at least three members, one of whom must be an independent member of the Standards Committee. An independent member must chair the Sub-Committees. Members who have considered a complaint at the assessment stage cannot be involved with the review of that complaint.
- 3.3 Guidance from Standards for England [formerly the Standards Board for England] suggests that Sub-Committees do not have to have fixed membership. In previous years the Committee authorised the Monitoring Officer, in consultation with the Chair of the Standards Committee, to select an appropriate panel of

members to sit as the Assessment, Review or Consideration and Hearing Sub-Committee from three panels of members. The Monitoring Officer was also authorised to select replacement members from the Standards Committee to serve on any Sub-Committee where it was not possible to obtain a quorum of an established Sub-Committee. This process would enable the Monitoring Officer to exercise a degree of flexibility to select an appropriate panel of members in circumstances where some members were unavailable. This was a common practice amongst other authorities also.

- 3.4 More recent advice now suggests that there is no power for the Monitoring Officer to select replacement members and all appointments to a sub-committee for the purposes of discharging any of the Committee's functions have to be made by the Standards Committee. However, if sub-committees have to contain only named members and there is no flexibility to replace members in the event of conflict of interest or if members are unavailable, it will be necessary to increase the number of members on each sub-committee. Every effort would still be made to spread the workload equally among members of the Standards Committee.
- 3.5 To comply fully with statutory requirements it is necessary for the Committee to approve the appointment and membership of the Assessment, Review, Consideration and Hearing Sub-Committees in the manner set out in Appendix 1 to this report. It is not necessary to make any amendments to the terms of reference of the Sub-Committees.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out.

5. **LEGAL IMPLICATIONS**

- 5.1 Section 54A(6) of the Local Government Act 2000 states that the number of members of a Standards Sub-Committee and the term of office of those members are to be fixed by the Standards Committee.

- 5.2 Regulation 6 and 7 of the Standards Committee (England) Regulations 2008 requires Standards Committees to establish sub-committees, each chaired by an independent member. At least three members must be present at meetings of a Standards Committee, or a sub-committee of a Standards Committee, which must include at least one elected member of the Council.
- 5.3 Since the Standards Committee (Further Provisions) (England) Regulations 2009, in force from 16th June 2009, it has become clearer that for sub-committees of Standards Committees and of Joint Standards Committees, the appointment of members to the sub-committee must be made by the committee and not by or on behalf of the Monitoring Officer phoning round to check which members are available to be empanelled for a particular meeting. It therefore reinforces the need for standing rather than ad-hoc initial assessment and review sub-committees. Due to the unavailability of members and the need to deal with cases within 20 working days it was not always possible to stay within the fixed membership set by the Standards Committee. Increasing the size of the Sub-Committees will ensure that a quorum of 3 is likely to be achieved. It is important to avoid legal challenge.

6. **FINANCIAL IMPLICATIONS**

- 6.1 There are no significant resource implications arising from this report.

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MONITORING OFFICER

S PHELPS
CLERK