

**COUNCIL – 15<sup>TH</sup> May 2008**

**MINUTE 16**

**Amendments to the Constitution**

The Council received a report of the Corporate Director Support Services on proposed amendments to the Constitution.

Resolved:

1. That the number of Members on Appeals Committee A, Appeals Committee B, the Appointments & Disciplinary Committee and the Audit Committee be increased from 6 to 7 and Part 3 Schedule 2 of the Constitution be amended accordingly.

2. That the number of Members on the Development Control Committee be increased from 15 to 17 and Part 3 Schedule 2 of the Constitution be amended accordingly.

3. That the Council agrees, pursuant to Section 17 of the Local Government & Housing Act 1989 and Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990, not to take into account the number of voting co-opted members on the Education & Lifelong Learning Scrutiny Committee in calculating the majority party's overall majority on the Committee as required in S.15 (5) b) of the 1989 Act.

4. That the number of Members on the following Working Parties be increased from 6 to 7:

- Biodiversity and Environmental Awareness Working Party
- Children & Lifelong Learning Scrutiny Programme Working Party
- Community Services Scrutiny Programme Working Party
- Economic & Environmental Scrutiny Programme Working Party
- E Government & ICT Strategy Working Party
- Grants Strategy Working Party
- Pier & Foreshore Working Party
- The Honours & Holocaust Memorial Day Working Party
- Southend Business and Tourism Partnership

5. That the following Working Parties / Forums be abolished:

- ALMO Implementation Working Party
- Highways Consultancy Services Contract Working Party

- People Management Strategy Working Party
- Regeneration Working Party
- Southend Airport Working Party
- The Hotel Conference & Casino Working Party
- Essex County Council and Southend-on-Sea Borough Council Joint Advisory Panel

6. That an Accommodation Strategy Working Party be formally established with the Terms of Reference set out in Appendix 1 to the report.

7. That the Fostering Panel be specifically referred to in Part 3 Schedule 2 of the Constitution with the Terms of Reference as set out in Appendix 2 to the report.

8. Standards Committee

**8.1 That the number of members on the Standards Committee be increased from 11 to 12; the additional member being a second Leigh Town Councillor and as required by Regulation 4.2 of the Standards Committee (England) Regulations 2008.**

**8.2 That the Terms of Reference of the Standards Committee (in Part 2 Article 9 and Part 3 Schedule 2 of the Constitution) be amended in accordance with Appendix 3 to the report and any consequential amendments be made to the Constitution as required.**

9. That the number of substitute members who can be appointed by each political group in paragraphs 31.1 and 31.7 of Part 4(a) of the Constitution be increased to 9 and 5 respectively.

10. That other minor amendments be made to the Constitution to correct factual matters, including updating Member, Committee and Officer details, the Members' Allowances Scheme (Part 6) and the EU thresholds in the Contracts Procedure Rules (Part 4(g)).

## **EXTRACTS FROM REPORT 03 ON AMENDMENTS TO THE CONSTITUTION**

### **1. Purpose of Report**

1.3 To make amendments to the Standards Committee arrangements in the light of the Local Government Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008.

### **2. Recommendations**

2.8 Standards Committee

2.8.1 That the number of members on the Standards Committee be increased from 11 to 12; the additional member being a second Leigh Town Councillor and as required by Regulation 4.2 of the Standards Committee (England) Regulations 2008.

- 2.8.2 That the Terms of Reference of the Standards Committee (in Part 2 Article 9 and Part 3 Schedule 2 of the Constitution) be amended in accordance with Appendix 3 and any consequential amendments be made to the Constitution as required.

### **3. Background**

#### 3.8 The Standards Committee and changes in the ethical standards regime

##### 3.8.1 Background

Part 10 of the Local Government and Public Involvement in Health Act 2007 has brought in significant changes to the procedures for dealing with complaints about the conduct of Members – in summary, the main changes are:

- Local Assessment of all complaints by the Council's Standards Committee rather than referral to the Standards Board for England as was previously the case.
- Standards Committees must be chaired by an Independent Member (this is already the case at Southend).
- Standards Committees may enter into working relationships with other Standards Committees.
- Standards Committees will report periodically to the Standards Board.
- The Standards Board becomes a strategic regulator. This role is to provide supervision, support and guidance for local authorities and to ensure a degree of consistency in the application of the Members' Code of Conduct.

##### 3.8.2 Local Assessment

Of these changes the most significant is the local assessment of complaints. In the first instance, complaints will now be made to the Council's Standards Committee who will have to decide on whether to:

- Refer complaints to the Monitoring Officer for investigation;
- Refer complaints to the Monitoring Officer for Other Action e.g. mediation or training;
- Refer complaints to the Standards Board for England for investigation;
- Decide that no further action be taken.

The Act provides the right for the Complainant to request a review if the Standards Committee or Sub-Committee decides to take no action.

**3.8.3 The Standards Committee (England) Regulations 2008**

At last, on 17<sup>th</sup> April 2008, the Regulations were laid before Parliament. These Regulations, and hence the new system, will come into force on 8<sup>th</sup> May 2008.

These Regulations set out the details of how the new framework will operate. The key changes are:

- Standards Committees will be required to establish 3 sub-committees:
  - (a) An Assessment Sub-Committee which will have the responsibility for the initial assessment of the allegations and determining whether a particular allegation should be investigated.
  - (b) A Review Sub-Committee which will have responsibility for considering any request from the complainant to review a decision of the Assessment Sub-Committee to take no action.
  - (c) A Hearing Sub-Committee
- Standards Sub-Committees must be composed of at least 25% Independent Members and must be chaired by an Independent Member; and
- The maximum sanction available to Standards Committees (or Sub-Committees) is increased from three months to six months suspension or partial suspension.

**3.8.4 Establishing the new Standards Sub-Committees and amending the membership of the Standards Committee**

The Standards Committee will need to establish three Sub-Committees as referred to above.

Each Sub-Committee must be chaired by an Independent Member and there must be three Members of the Sub-Committee present for the duration of the meeting, including at least one Member of the Borough Council and at least one Town Council Member where the allegation relates to a Town Councillor.

Whilst these Sub-Committees are established by the Standards Committee, clearly the Annual Council must provide sufficient Members for the Sub-Committee to be able to comply with the Regulations. The Regulations specifically state that the members of the Assessment Sub-Committee for a particular matter cannot overlap with that of the Review Sub-Committee when the latter considers the same matter. The Regulations are silent on the issue of any overlap with a Hearing Sub-Committee, but the Standards Board Guidance issued on 2<sup>nd</sup> May 2008 says this is quite legitimate, although it would still be desirable to try and avoid this.

Fortunately the Council's Standards Committee already consists of 11 Members (including 3 independents) and with the addition of a second Leigh-on-Sea Town Councillor (which the Regulations require), this means it will

have 12 Members; providing sufficient flexibility to cover all the Sub-Committees.

One other important point to note at this stage concerning the Assessment Sub-Committee and the Review Sub-Committee is that the Act disapplies all provisions relating to access to information and attendance at meetings, so the public and press will be excluded. The Act and Regulations also provide that the Member, the subject of the complaint will be excluded from meetings of these two Sub-Committees, but he or she is entitled to attend and be represented at the Hearing Sub-Committee.

### 3.8.5 Terms of Reference of Standards Committee

It is necessary for the Council to amend the Standards Committee's Terms of Reference in the light of these significant changes. To this end, it is recommended that the terms of reference set out in **Appendix 3** are agreed.

### 3.8.6 Guidance from the Standards Board for England

The Standards Board has just issued guidance on the new local assessment framework, covering the role and make-up of Standards Committees, local assessment and how it will operate, local investigations, local determinations, and monitoring and audit arrangements. This guidance will be considered by the Standards Committee.