



ASHFORD
BOROUGH COUNCIL

Civic Centre
Tannery Lane
Ashford, Kent
TN23 1PL

Terms of Reference

Assessment Panel Membership

All Borough Council Members, Independent Members and Parish Council Representatives appointed to the Standards Committee from time to time shall be members of the Assessment Panel and from this membership shall be drawn for each meeting of the Panel one person from each of the 3 categories of membership. This shall be the quorum for that meeting.

Assessment Panel Membership Terms of Reference

- (a) The Assessment Panel is established to receive allegations that a Borough Council or Parish or Town Council member or co-opted member has failed or may have failed to comply with the relevant Code of Conduct and each meeting must be chaired by an independent Member.
- (b) Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Assessment Panel shall make an initial assessment of the allegation and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
 - ii. refer the allegation to the Standards Board for England;
 - iii. decide that no action should be taken in respect of the allegation; or
 - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- (c) Upon completion of an investigation by or on behalf of the Monitoring Officer, the Assessment Panel shall be responsible for determining whether:
 - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;

- ii. the matter should be referred for consideration at a hearing before the Hearings Panel of the Standards Committee; or
 - iii. the matter should be referred to the national Adjudication Panel for determination.
- (d) Where the Assessment Panel resolves to do any of the actions set out in Paragraph (b) or (c) above, the Panel shall state its reasons for that decision.
- (e) The Assessment Panel shall consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- (f) The Assessment Panel shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

Review Panel Membership

All Borough Council Members, Independent Members and Parish Council Representatives appointed to the Standards Committee from time to time shall be members of the Review Panel and from this membership shall be drawn for each meeting of the Panel one person from each of the 3 categories of membership. This shall be the quorum for that meeting.

Review Panel Membership Terms of Reference

- (a) The Review Panel is established to review, upon the request of a person who has made an allegation that a member of an Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Assessment Panel that no action be taken in respect of that allegation.
- (b) Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Review Panel shall review the decision of the Assessment Panel and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she arrange training or conciliation or such appropriate alternative steps as permitted by Regulations;
 - ii. refer the allegation to the Standards Board for England;

- iii. decide that no action should be taken in respect of the allegation; or
- iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- (c) Where the Review Panel resolves to do any of the actions set out in Paragraph (b) above, the Panel shall state its reasons for that decision.

Hearings Panel Membership

All Borough Council Members, Independent Members and Parish Council Representatives appointed to the Standards Committee from time to time shall be members of the Hearings Panel and from this membership shall be drawn for each meeting of the Panel

- i. one from each of the 3 categories of membership when considering a matter relating to the conduct of a person in his/her capacity as a parish or town councillor. This shall be the quorum for that meeting.
- ii. two Borough Council Members (from different political groups where possible) and one Independent Member when considering a matter relating to the conduct of a person in his/her capacity as a borough councillor. This shall be the quorum for that meeting.

Hearings Panel Membership Terms of Reference

To conduct local hearings on matters referred for investigation by the Assessment Panel or the Review Panel (or by the Standards Board for England) in accordance with approved procedures and to make determinations on such matters, including the application of sanctions.

Notes on Administrative Arrangements for Appointment of Members for Individual Meetings of Assessment, Review and Hearings Panels

- 1 All Panels must be chaired by an Independent Member
- 2 Appointments for each meeting of a Panel will be made from within the overall membership taking into account the following factors:
 - no person shall be appointed to a Review Panel if he/she has already considered the same allegation as a member of an Assessment Panel.

- A Hearing Panel consisting only of persons who have not sat on an Assessment Panel or Review Panel in relation to do the same matter will be appointed where it is reasonably practicable to do so although this should not be regarded as a legal or procedural requirement.
 - so far as practicable there will be a reasonable spread of responsibility/appointments amongst all members of each Panel.
 - no person shall be appointed to a Panel who has a close family, personal or business relationship with the respondent member, with the complainant or with any other person involved in the case or who is himself/herself a potential witness relating to the matter.
 - where practicable there should be no appointment to a Panel of a Parish Representative from the same parish council as the respondent member and/or complainant.
 - where practicable there should be no appointment to a Panel of a Borough Council member who is a joint Borough Council ward member with the respondent member or complainant.
 - where practicable there should be no appointment to a Panel of a Borough Council member whose borough ward includes the parish of the respondent parish councillor.
3. The Borough Council's normal scheme allowing substitute members to be appointed (which applies only to borough councillors and only within the same political groups) shall not apply to appointments to Panels. However it is possible that significant personal interests in a particular matter may become apparent only after appointment to a Panel considering that matter. It is also possible that a member appointed to a Panel may become unable to sit for some other reason at short notice eg. by reason of illness. In order to minimise the risk of cancellation of Panel meetings replacement members should be permitted on the following terms:
- any appointed member who finds himself/herself unable to sit must notify the Head of Legal and Democratic Services as soon as reasonably practicable
 - a replacement member will be identified by the Head of Legal and Democratic Services from within the membership of the Panel only, and from within the same membership category only ie: only another borough council member can replace an indisposed borough council member, and the same for independent and parish members. Such replacement will be identified taking into account availability and eligibility including the various matters set out at paragraph 2 above.
 - The replacement member must be identified and provided with all relevant papers in reasonable time to enable him/her to prepare for the meeting of the Panel.