



GOVERNANCE COMMITTEE

Subject Heading:

CHANGES TO THE CORPORATE HEARINGS PROCESS

CMT Lead:

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Policy context:

To formally adopt the Initial Assessment Panel as part of the Corporate Hearings process and to amend the relevant part of the Constitution to reflect that.

Financial summary:

The cost of any change would be minimal

Has an Equality Impact Assessment (EIA) been carried out?

Not required.

The subject matter of this report deals with the following Council Objectives

| | |
|--|-------------------------------------|
| Clean, safe and green borough | <input type="checkbox"/> |
| Excellence in education and learning | <input type="checkbox"/> |
| Opportunities for all through economic, social and cultural activity | <input type="checkbox"/> |
| Value and enhance the life of every individual | <input checked="" type="checkbox"/> |
| High customer satisfaction and a stable council tax | <input checked="" type="checkbox"/> |

SUMMARY

The Stage Three of the Council's Corporate Complaints process requires a hearing to be held before a panel of Councillors. This is costly in terms of officer and Member time and administrative support.

In 2010 the Adjudication and Review Committee adopted – by way of experiment – an “assessment” phase (taken from the process used by the Standards Committee) to filter out hearing requests which had no merit.

Since the inception of the Initial Assessment Panels (IAPs) the work of Adjudication and Review in discharging its responsibilities under the Constitution has become more effective, speedier and has saved the Council considerable expense by preventing inappropriate cases from becoming full hearings and

allowing through cases where Councillors could contribute positively to the outcome.

RECOMMENDATIONS

1. That the Committee approve the use of Initial Assessment Panels as a permanent part of the Council's complaints procedure and
2. Recommend to Council that the changes in this report be made to the relevant part of the Constitution.

REPORT DETAIL

1. On 19 January 2009, a report was presented to the Adjudication and Review Committee inviting it to adopt an assessment phase for screening requests for hearings in order to ensure that only cases which had merit – and to which Councillors could make positive contributions – were passed on for a full hearing.
2. The model suggested was based on the Assessment Sub-Committee then in use – to good effect - by the Standards Committee. The need for such a mechanism had become apparent after Members had registered dissatisfaction at having to consider appeals about which they could do little or nothing and which had placed a time burden on both staff and Councillors as well as the cost of the rooms and materials supporting those hearings.
3. In order to ensure that Councillors remained integral to Stage Three, the Initial Assessment Panel (IAP) was originally set up with two Councillors (one of whom was either the Chairman of the Adjudication and Review Committee or one of its Vice Chairs). The IAP was designed to be informal and could be held at short notice in order to determine whether a complainant's case should progress to a full hearing or not.
4. The IAPs are serviced by a clerk from Committee Administration and, if the members of a particular IAP considered it to be necessary, a member of Legal Services.
5. The options open to IAPs – from its inception to date - are
 - a Reject the hearing request (and refer the complainant either to the Local Government Ombudsman or, if not appropriate, to another body)
 - b Recommend the matter proceed to a hearing or

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- c Refer part or all of the complaint back to the Service in order that further work can be undertaken (and hopefully the issues resolved). This is an aid to determining whether course a or b above should be followed.
- 6. Since the IAPs were set up, there have been 11 meetings covering 12 individual cases of which 5 were rejected and 4 proceeded to a hearing. A hearing was recommended in another case, but the Service came to a settlement with the complainant and the hearing was no longer necessary
- 7. During a review of the process it became clear that having ad hoc IAPs was not a very economical way to use Members' time and that (again using the Standards Committee model) it would be better to have set dates for IAPs and for these to appear in the Council's calendar. This has been done for the year ahead so that Members are aware their attendance may be required.
- 8. During the course of 2012, the process was further refined and currently the status of an IAP is that of a decision-making body in that it decides whether to reject a hearing request or pass it on to a formal hearing, but if it decides on the latter course, it effectively makes itself wholly invisible and there will be no reference to the IAP. By this it is meant that it makes no recommendations to a hearings panel, nor are the case papers changed in any way. What it received and deliberated on goes to the hearing as if the IAP had not happened.

Changes to the Constitution

- 9. Because the introduction of Initial Assessment Panels was an experiment, to date it has not been appropriate for any changes to be made to the Constitution. If the Committee is minded to continue using IAPs in the future, it will be necessary to make mention of them in Part 3, 1.2 Functions delegated to general council committees. The changes proposed are:

Add wording in Hearings Panels, General hearings to read:

"Initial Assessment Panels – To assess complaints referred to Members for their adjudication under the agreed Corporate Complaints procedure"

And amend existing wording to read:

"To consider complaints by service users referred to them by Initial Assessment panels relating to the service made available to them in accordance with the authority's agreed Corporate Complaints procedure."

- 10. The above changes will ensure that, in the event of a challenge to any decision to reject a hearings request by a complainant because the IAP is not a formal part of the procedure, the Council has taken steps to eliminate any such charge and thereby eliminated any potential claim for damages or charge of maladministration.

IMPLICATIONS AND RISKS

*There is a **corporate** requirement to set out the implications and risks of the decision sought, in the following areas*

Financial implications and risks:

These changes are purely procedural and have no specific financial implications.

Legal implications and risks:

The Constitution provides for the Monitoring Officer to make certain amendments to the constitution

Human Resources implications and risks:

None

Equalities implications and risks:

None

BACKGROUND PAPERS

E-mail correspondence re: amendments