

REVIEW OF CODE OF CONDUCT ARRANGEMENTS

Executive Summary

A review of the Council's arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011 has been undertaken by the Monitoring Officer to establish whether the procedures are fit for purpose and effective. The Monitoring Officer has consulted with Members, the Chairman of Standards and Audit Committee and Independent Person. This report outlines the proposed changes to the arrangements and recommends them for adoption.

Recommendations

The Committee is requested to:

RECOMMEND TO COUNCIL That

- (i) the arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011 be adopted;
- (ii) the Standards Hearing Sub-Committee shall be renamed the Standards Panel; and
- (iii) the Council's constitution be updated to include the arrangements.

The item(s) above will need to be dealt with by way of a recommendation to Council.

Background Papers: None.

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1.0 Introduction

- 1.1 Under the Localism Act 2011, the Council must have arrangements under which allegations that a Member has failed to comply with the Members' Code of Conduct can be investigated, and decisions made on such allegations.
- 1.2 At its meeting on 8 July 2021, the Audit and Standards Committee requested that the Monitoring Officer review the Council's Arrangements for dealing with Standards Allegations under the Localism Act 2011.
- 1.3 At its meeting of 16 September 2021, the Standards and Audit Committee received an update report. The Monitoring Officer has now undertaken a wholesale review of the arrangements to establish whether the procedures are fit for purpose, effective and follow best practice. The Monitoring Officer has consulted with Members throughout this process.

2.0 Review of the Council's Arrangements

- 2.1 The Council's arrangements for dealing with Standards Allegations under the Localism Act 2011 can be found on page 207 of the Council's Constitution. These arrangements outline the Council's processes and procedure under which allegations that a Member or co-opted Member has failed to comply with the Council's Code of Conduct are considered.
- 2.2 It is important that those subject to the arrangements are consulted on them and involved in the development of any new arrangements. Members were invited to provide individual feedback in respect of the current arrangements, their experience of them and any proposed changes they would like to see moving forward. Members were also invited to attend a workshop to discuss the same. The Chairman of the Standards and Audit Committee and the Independent Person were also consulted.

2.3 Consultation

- 2.4 Several themes emerged from the consultation with Members, the Independent Person and the Chairman of the Standards and Audit Committee. The first being that complaints should be dealt with in a timely manner. It is recognised that a prompt investigation and resolution is beneficial to all parties involved in the process. Whilst, the current arrangements have timescales included within them, these have been expanded upon in the new arrangements with clear timescales being given at each step of the process. Further, to this the new arrangements state that:

"The investigation shall be carried out promptly, with the expectation that all investigations, resolution of the Standards Panel will be completed within a maximum period of four months. All those involved in the complaint should do their utmost to ensure that this can happen."

- 2.5 Importantly, should there be any delay in any part of the process the Complainant and Subject Member shall be kept informed and provided with an explanation as to why there has been a delay.
- 2.6 Throughout the consultation, discussions turned to the provision of procedural and emotional support for the Complainant and Subject Member throughout the process. In these discussions, it was highlighted that support should be available in two distinct areas; as a guide to assist the Complainant and Subject Member in respect of the procedural elements of the process and as support to the Complainant and Subject Member throughout what may be a stressful process. It was noted that given the Monitoring Officer's role in the process, independent support would be preferable. The Council's Deputy Monitoring Officer and Human Resources Department shall be available to provide any such support and assistance needed throughout this process.

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- 2.7 Members have requested clarity around the process. Members are often not familiar with the detailed process of the arrangements until they are involved within them. The process often feels legalistic and not “user friendly”. The process has for the most part remained the same but in response to the feedback, the arrangements have been expanded upon to provide clarity and detail at each step of the process. Notably, Appendix 1B to the arrangements provides detail of the assessment criteria applied in the decision making process and Appendix 1C to the arrangements outlines the procedure at Standards Panel. It is proposed that training in respect of the arrangements shall be provided to Members at the same time they received their annual Code of Conduct training.
- 2.8 The name of the Standards Hearing Sub-Committee provoked the image of an adversarial hearing process, which is not the Council’s intention. The process is inquisitorial in nature, as such it is proposed to change its name to the Standards Panel which better reflects the role. The membership shall remain the same.
- 3.0 **New Arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011**
- 3.1 Members will find at Appendix 1 to this report, the proposed new arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011, together with Appendix 1A to the arrangements - the Complaint Form and Annex1AA sanctions guidance, Appendix 1B to the arrangements - the Assessment of the complaint and Appendix 1C - Standards Panel guidance. A flowchart has been attached to this report at Appendix 2 to assist Members with the process.
- 3.2 Members are requested to recommend to Council that the New Arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011 are adopted and the Council’s constitution be updated accordingly.

4.0 Future Review

- 4.1 An area for future consideration is the structure and make up of our Standards Panel. There is a small pool of Members from which the Standards Panel may be called. This can at times prove difficult to ensure a proportionately balanced Panel of Members with no prior knowledge or involvement in the matter at short notice. To date, this has always been achieved but it is a matter which shall continue to be monitored for further exploration and consideration.

5.0 Corporate Strategy

It is important to ensure that high standards of probity and ethical framework are at the heart of corporate governance of the authority and to ensure transparency and accountability.

6.0 Implications

Finance and Risk

- 6.1 There are no specific implications outlined in the report.

Equalities and Human Resources

There are no specific implications in respect of this report. It should be noted that should a complainant be unable to make a complainant in writing a reasonable adjustment shall be made to allow the complainant to make a complaint should they wish to do so.

Legal

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- 6.5 Elected members are required to act in accordance with the Council's Code of Conduct and the Council must have appropriate arrangements in place, in accordance with the Localism Act 2011.

7.0 Engagement and Consultation

- 7.1 Members have been invited to attend a workshop to provide feedback on the current regime and proposed areas for change.

REPORT ENDS