

Report to: Audit and Governance Committee

Date: 3 March 2021

Title: Arrangements for Dealing with Complaints about Councillor Conduct

Report of: Monitoring Officer

Ward(s): All

Purpose of report: To seek approval of written procedures for dealing with complaints about councillor conduct

Officer recommendations: That the Committee–

- (1) approve the procedure for dealing with complaints about councillor conduct, as set out in Appendix 1;
- (2) approve the investigation procedure and hearings procedure set out at Appendices 2 and 3 respectively; and
- (3) grant delegated authority to the Monitoring Officer to make any administrative or technical amendments to the above procedures, necessary to ensure ongoing compliance with the law and best practice.

Reasons for recommendations: The Council must by law put in place arrangements under which allegations of councillor misconduct can be investigated and determined.

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1 Introduction

- 1.1 Section 28 of the Localism Act 2011 requires the Council to have in place arrangements under which allegations that a Member has failed to comply with the authority's Code of Conduct can be (a) investigated and (b) determined.
- 1.2 Historically, the Council has relied on informal and unwritten procedures for dealing with allegations of councillor misconduct. This may lead to inconsistency and unfairness, and the Council should therefore adopt a written set of procedures and publish them on its website, for all to access and refer to when needed.

2 Proposed procedures

- 2.1 The “arrangements” required by the Localism Act do not prescribe the actual procedures for dealing with complaints about councillor conduct. These are a matter for individual local authorities, and in practice the content has evolved over time in line with case law (decisions of the courts) and best practice.
- 2.2 To rectify the Council’s lack of written procedures, it is recommended that the Committee approve the following documents:
- (i) Arrangements for dealing with complaints about councillor conduct, set out in Appendix 1;
 - (ii) Investigation Procedure, set out in Appendix 2; and
 - (iii) Hearings Procedure, set out in Appendix 3
- 2.3 In broad terms, the arrangements for dealing with councillor conduct (Appendix 1) consist of:
- (i) a preliminary assessment, in consultation with the Independent Person, to decide if the complaint can and should be formally investigated;
 - (ii) arrangements for the formal investigation (if warranted), described in more detail in the Investigation Procedure (Appendix 2); and
 - (iii) options for resolving the complaint once an investigation is complete, which may include a Standards Panel hearing – described in more detail in the Hearings Procedure (Appendix 3).
- 2.4 The procedures at appendices 1-3 are based on those used by Lewes District Council for the past eight years and are also broadly consistent with those used by other neighbouring authorities.
- 2.5 However, we have taken this opportunity to update the arrangements for dealing with complaints about councillor conduct (Appendix 1) to implement a best practice recommendation by the Committee on Standards in Public Life. This relates to the section headed ‘Will your complaint be formally investigated?’ which now, taking on board the recommendation, sets out the public interest factors the Monitoring Officer will consider in deciding whether a complaint should be formally investigated.

3 No change to Code of Conduct

- 3.1 The Committee should note that **no changes** to the Code of Conduct for Members are proposed at this time. This report is solely about the arrangements for dealing with allegations that a Member has failed to comply with the Code.

4 Financial appraisal

- 4.1 Approving the three procedures referenced in this report has no cost implications, as the documents are already drafted and simply require uploading to the Council’s website. The cost of implementing the procedures is already provided for in the Legal Services staff budget.

5 Legal implications

- 5.1 Approving the recommendations in this report will provide added assurance that the Council is complying with its legal obligations under section 28(6) of the Localism Act 2011.
- 5.2 Under the Council's constitution, the Audit and Governance Committee has a specific remit to put in place arrangements to investigate and make decisions in relation to complaints about councillor conduct. The Committee therefore has authority to agree the recommendations without referring them to full Council.

6 Risk management implications

- 6.1 If the Council does not have a written set of procedures for dealing with complaints about councillor conduct, it will not be able to demonstrate fairness and consistency in the way these complaints are processed and resolved. To maintain confidence in local democracy, the public need to know there is a robust system for holding councillors to account when it appears they have failed to comply with the Code of Conduct.

7 Appendices

- Appendix 1 – Arrangements for dealing with complaints about councillor conduct
Appendix 2 – Investigation Procedure
Appendix 3 – Hearings Procedure

8 Background papers

The background papers used in compiling this report were as follows:

- Local Government Ethical Standards – a review by the Committee on Standards in Public Life:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF