



**Report of Helen Lynch, Head of Legal and Democratic Service and
Monitoring Officer**

Electoral division(s) affected:

None.

Purpose of the Report

1. To inform Standards Committee of the proposed revisions to the Local Assessment Procedure and the Local Determination Procedure and to agree the Procedure for Member Code of Conduct Complaints.

Executive summary

2. The Localism Act 2011 requires that the Council adopt arrangements for dealing with complaints of breach of the Code of Conduct by both County Council Members and Parish Council Members.
3. The Council's Local Assessment Procedure, which sets out how complaints are dealt with was adopted in 2012. It has been periodically updated since its inception with the most recent update in March 2022. The Council's Local Determination Procedure, which sets out how hearings are conducted was adopted in July 2016 and identified in the Standards Committee's annual work programme for review in March 2023.
4. The Standards Committee considered an initial draft revised Procedure at its meeting on 17 March 2023. It was agreed that the Constitution Working Group would be consulted on the proposed changes prior to the Procedure being recommended for adoption.
5. This report summarises the proposed changes to those Procedures, which include combining the Local Assessment Procedure and Local Determination Procedures into one single document, the feedback received from Constitution Working Group and recommends that the Committee adopt the revised Procedure.

Recommendations

6. Standards Committee is asked to:

- (a) Consider the proposed amendments to the Procedure for Member Code of Conduct Complaints; and
- (b) Note that the Head of Legal and Democratic Services has made minor amendments to the Procedure following consultation with Constitution Working Group; and
- (c) Agree to adopt the revised Procedure for Member Code of Conduct Complaints.

Review of the Procedures and Proposed Changes

7. It is good practice to periodically review the arrangements for Standards matters to ensure that they remain fit for purpose. Accordingly, the Local Assessment and Local Determination Procedures (attached at Appendix 2 and 3 respectively) have been reviewed as part of the Standards Committee Work Programme.
8. The Standards Committee considered the proposed amendments to the Procedures at its meeting on 17 March 2023. The Committee will recall that the most significant proposed change is to combine the two procedures into a single “Procedure for Member Code of Conduct Complaints”. This will mean that the arrangements for dealing with Member Code of Conduct complaints will be located in one place, making them easier to identify and more user friendly.
9. In addition to combining the two procedures, it is proposed that the presentation of the documents is updated to reflect the current corporate style with the Council’s logo and colour scheme. This together with the introduction of hyperlinks will make the procedure easier to navigate and again, more user friendly.
10. It is also proposed to make some limited substantive changes to the procedure. These include provision for the Monitoring Officer or Deputy Monitoring Officer to nominate an Officer to deputise on their behalf in relation to the initial assessment of complaints and also advising at Hearing Panels of the Standards Committee. The Monitoring Officer or Deputy Monitoring Officer will retain oversight of the handling of complaints.
11. It is proposed to include a list of considerations to be taken into account when deciding if/how a complaint should progress. The considerations, which are set out at paragraph 3.3 include:
 - Where the Member Code of Conduct is not engaged or, the conduct is unlikely to amount to a breach of the Code of Conduct.
 - Where a complaint is more than 3 months old and there is no good reason for the delay.
 - Where multiple complaints have been submitted of a similar nature.
 - Where the complaint has already been subject of an investigation or other action either at the Council or another regulatory authority in the last 3 years.
 - Where the complaint appears to be malicious, politically motivated or tit-for-tat.
 - Where the Subject Member has already apologised or offered a remedy.

12. Where one or more of the criteria at paragraph 3.3 are met, complaints will only be considered if the Monitoring Officer considers it proportionate, taking into account the potential outcome of a complaint.
13. It is also proposed to update the Procedure to reflect that where multiple complaints are submitted against the same Subject Member and/or arise out of the same facts, they may be dealt with under a single decision notice. This is again to assist with the proportionate discharge of the complaints process. The proposed changes are included at paragraph 3.5 of the Procedure.
14. The Standards Committee requested that Constitution Working Group were consulted on the revised Procedure prior to it being presented to Council for adoption. The Committee also delegated authority to the Head of Legal and Democratic Services in consultation with the Chair of the Standards Committee to make any minor amendments that may arise from Constitution Working Group prior to the Procedure being presented to Council for approval.
15. The Constitution Working Group considered the proposed revised procedure on 20 April 2023. The Group requested that the Procedure be amended to provide that where appropriate, the relevant Group Leader will be informed of a complaint against a Member of their group and also the outcome. This amendment is set out at paragraph 3.9 of the Procedure.
16. The Standards Committee is also asked to consider a further proposal to paragraphs 6.1 to 6.3. The amendment is minor and is in relation to where the decision notice of an assessment of a complaint refers the complaint to the Standards Committee for a hearing without an investigation. This is to reflect the option under the current Local Assessment Procedure which is already available to the Monitoring Officer (or a person deputising on their behalf) following an initial assessment to refer a complaint to the Standards Committee without an investigation taking place. A copy of the revised Procedure is attached at Appendix 4.
17. As part of the Annual Review of the Constitution, which was considered at the annual full Council meeting on 24 May 2023, Council delegated responsibility for the approval of the arrangements under which allegations of a failure to comply with Council's Code of Conduct for Members can be investigated and decisions on allegations can be made pursuant to section 28(6) of the Localism Act 2011 to the Standards Committee. Accordingly, it is now the responsibility of the Standards Committee to approve the revised Procedure.

Conclusion

18. The Standards Committee are invited to consider and adopt the revised Procedure for Member Code of Conduct Complaints.

Background Papers

None

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Appendix 1: Implications

Legal Implications

The Council has a duty under section 28 of the Localism Act 2011 to ensure that arrangements are in place under which allegations relating to the Code of Conduct can be investigated and decisions can be made. The Procedure for Member Code of Conduct Complaints ensures that this is complied with.

Finance

None.

Consultation

Constitution Working Group considered the proposed changes to the Procedure on 20 April 2023. The revised draft presented with the report incorporates the feedback from the Group.

Equality and Diversity / Public Sector Equality Duty

The Council has a legal obligation to ensure that documents which are published on its website are accessible in accordance with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018. The Procedure for Member Code of Conduct Complaints ensures compliance with this obligation.

Climate Change

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None.