



Audit and Standards Committee Report

Report of: The Monitoring Officer/Director of Legal and Governance

Date: 12 January 2017

Subject: Review of the Procedure for Dealing with Standards Complaints

Author of Report: Dave Ross, Democratic Services - 0114 273 5033

Summary:

The Procedure for Dealing with Standards Complaints was approved by Full Council on 25 March 2015 following a recommendation from the former Standards Committee. The Procedure has been reviewed in the light of the experience of dealing with complaints over the last 14 months.

Recommendations: That the Committee:

- (a) Comments on the draft revised Procedure for Dealing with Standards Complaints;
 - (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Procedure and that the Constitution is amended accordingly;
 - (c) Refers the revised Procedure to the Parish and Town Councils for consideration and adoption; and
 - (d) Requests the Director of Legal and Governance to review the Procedure annually and submit a report to this Committee on any proposed changes.
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Background Papers: None

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
NO
Legal Implications
YES Cleared by: Gillian Duckworth
Equality of Opportunity Implications
NO
Tackling Health Inequalities Implications
NO
Human rights Implications
NO
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Area(s) affected
None
Is the item a matter which is reserved for approval by the City Council?
YES
Press release
NO

REVIEW OF THE PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS

1.0 INTRODUCTION

1.1 Following a recent review, a number of revisions are proposed to the Procedure for Dealing with Complaints Regarding City, Parish and Town Councillors and Co-opted Members.

2.0 BACKGROUND

2.1 The current Procedure was adopted by Full Council on 25 March 2015, following a recommendation from the former Standards Committee at its meeting on 22 January 2015. The main changes were:-

- Having one Procedure for City, Parish and Town Councils and Co-opted Members.
- Introducing a complaint form.
- Asking the Member to submit a statement of fact in response to the complaint to assist with the assessment.
- The Leader of the relevant political Group, Group Whip and Chair of the Audit and Standards Committee are informed that a complaint has been received. Where a complaint relates to a Parish or Town Council, the Clerk is also informed.
- Where necessary, seeking or clarifying information from both parties earlier in the process.
- Including timescales for each stage of the process.
- Clarifying the process for an investigation.
- Having a Consideration Sub-Committee to consider investigation reports. This is to build in more Member involvement in the process.
- A Hearing Sub-Committee comprising three Councillors and one non-voting co-opted Independent Member.
- Providing both parties with information on the pre-hearing process and procedure at a hearing.
- There is no right of appeal to the Council at any stage of the process but the complainant can contact the Local Government Ombudsman if they feel that we have not dealt with their complaint properly.

2.2 The Council appointed three Independent Persons (Stuart Carvell, Marvyn Moore and David Waxman) to assist the Monitoring Officer and the Committee in considering complaints.

2.3 The first stage of the Procedure is the assessment of the complaint. Following consultation with the Independent Person, the Monitoring Officer will consider if the allegation constitutes a potential breach of the Code of Conduct and take one of the following courses of action:-

- 1) Take no action or
- 2) Take other action through informal resolution or
- 3) Refer the matter for investigation

2.2 As part of the consideration of the Revised Procedure, the Standards Committee requested that the operation of the Procedure was reviewed in a year's time.

3.0 REVIEW OF PROCEDURE

3.1 Since the introduction of the new Procedure, 27 formal complaints have been considered and their outcome is as follows:-

Take no action – 16

Take other action through informal resolution - 3

Referred for Investigation - 0

6 complaints are still to be concluded and 2 complaints were not accepted due to a significant amount of time having passed since the alleged incidents took place.

3.2 The Procedure has been reviewed in light of the learning and experience of dealing with those complaints over the last 14 months and the views of the three Independent Persons and the Clerks to the Parish and Town Councils were also sought.

3.3 Generally the Procedure has worked well but a number of revisions are proposed:-

- Clarifying the process for withdrawing a complaint.
- Including an explanation for the possible reasons for taking no action, seeking informal resolution and referring a complaint for investigation.
- If an informal resolution cannot be agreed then the Monitoring Officer, in consultation with the Independent Person, will reassess the complaint, taking into consideration the reasons why informal resolution has not been agreed.
- It is expected that the Monitoring Officer will refer only the most serious potential breaches for investigation or where the Member is not willing to accept an informal resolution or fundamentally disputes or does not accept the allegations in the complaint.

3.4 Members are asked to comment on the draft revised Procedure that is appended to the report.

3.5 Any complaints submitted before any revisions are approved by Full Council will be considered under the existing Procedure.

4.0 LEGAL IMPLICATIONS

- 4.1 As the Procedure is included in the Constitution, any changes would require approval at Full Council. The revised Procedure would also need to be approved by the Parish and Town Councils.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications.

6.0 RECOMMENDATIONS

- 6.1 That the Committee:-
- (a) Comments on the draft revised Procedure for Dealing with Standards Complaints;
 - (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Procedure and that the Constitution is amended accordingly;
 - (c) Refers the revised Procedure to the Parish and Town Councils for consideration and adoption; and
 - (d) Requests the Director of Legal and Governance to review the Procedure annually and submit a report to this Committee on any proposed changes.

Gillian Duckworth
Monitoring Officer/Director of Legal and Governance

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