

MUNICIPAL YEAR 2013/2014 REPORT NO. 139

MEETING TITLE AND DATE

Council
27 November 2013

REPORT OF: Director of Finance,
Resources and Customer Services

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Part: 1

Item: 13

Subject: Review of procedure for
dealing with complaints against
councillors and co-opted members

Wards: All

Cabinet Member consulted:
Not applicable

1. EXECUTIVE SUMMARY

The Complaints Procedure for use when dealing with complaints against councillors and co-opted members was reviewed at the meeting of the Councillor Conduct Committee held on 22 October 2013.

They considered the procedure and agreed amendments to ensure that it was clear and easy to follow, and could not be open to misinterpretation.

An amended procedure, attached as Appendix A to this report is recommended to Council for approval.

2. RECOMMENDATIONS

- 2.1 That Council agree the changes to the Procedure for Dealing with Complaints against Councillors and Co-opted Members as set out in Appendix A to this report.
- 2.2 To note the flowchart, complaint and appeal forms, attached to the report, which will be used to administer the complaints process.

3. BACKGROUND

- 3.1 Enfield's procedure for dealing with complaints against councillors and co-opted members was redrafted following the changes to the Standard's Regime brought about by the Localism Act 2011. The aim of the changes introduced by the Localism Act was to streamline the procedure for dealing with complaints against

councillors and it was left to individual authorities to establish their own local arrangements. A new procedure was agreed at Council on 4 July 2012.

- 3.2 The Councillor Conduct Committee reviewed the process at a meeting on 2 May 2013 and agreed that a further review would take place when the process had been used.
- 3.3 At the 19 September 2013 meeting of the Committee members discussed the consideration of an appeal against decision that had been taken by the Monitoring Officer in relation to a complaint and felt that a further review of the procedure was necessary to ensure that the appeal process was clear and easy to follow.
- 3.4 The Monitoring Officer reviewed the procedure and suggested a number of amendments, mainly concerned with ensuring that it was clear how and when appeals against complaints decisions by the monitoring officer could be made. They included the following:
 - The addition of a paragraph (3.3) stating that there can be no appeal against a Monitoring Officer decision, where they had decided that the complaint did not meet eligibility criteria.
 - An extra section (Paragraph 6) setting out plainly the processes for appeals against Monitoring Officer decisions.
 - The inclusion of paragraph (6.2) stating that councillors complained against also have a right of appeal against Monitoring Officer decisions.
- 3.5 The changes were discussed and agreed at the Councillor Conduct Committee meeting held on 22 October 2013.
- 3.6 The Committee also considered whether or not the complainant should have a right of appeal, as is included in the current procedure, against a decision of the Councillor Conduct Committee.
- 3.7 After discussion, they agreed that it was appropriate to allow appeals against the decision of the Monitoring Officer, as this was a decision taken by one person in consultation with the Independent Person, but not against a decision of the Committee which was a democratically elected group of people, who also had the benefit of formal legal advice. They felt that there was no benefit in setting up another panel to replicate what had already been considered by the Councillor Conduct Committee and so removed this right of appeal.
- 3.8 The amendments proposed to the procedure have been detailed in Appendix A to the report. It is also proposed that paragraph 6 in the original code be replaced by a paragraph stating that the decision of the Councillor Conduct Committee will be final and binding and that there will be no further right of appeal. If the complainant feels that the Council has failed to deal with the complaint properly and

that this failure has caused in justice, they can make a complaint to the Local Government Ombudsman.

- 3.9 Two forms have also been put together to help administer the process: a form to be completed when a complaint is made and another for appeals. These are attached as appendices to the amended procedure.
- 3.10 When making a complaint, all complainants will have to complete the Councillor Conduct Complaint Form, which will include all the information required to enable the monitoring officer to make an initial assessment on the complaint. Any appeal will have to be made using the appeal form template.
- 3.11 Christine Chamberlain, the Independent Person, has been consulted on the proposed changes and has supported them.
- 3.12 A flow chart setting out the procedure is also attached as Appendix B to the report.
- 3.13 The procedure for hearings will be reviewed at the December meeting of the Councillor Conduct Committee.
- 3.14 The Councillor Conduct Committee agreed that the changes to the complaints procedure set out in Appendix A, should be recommended to Council for formal approval.

4. ALTERNATIVE OPTIONS CONSIDERED

An alternative option would be not to make any changes to the procedure, but this would mean that it could be open to misinterpretation.

5. REASONS FOR RECOMMENDATIONS

To ensure that the complaints procedure is fit for purpose.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

The changes will be made using existing financial resources.

6.2 Legal Implications

The Localism Act introduced a number of changes to the Standards Regime which included giving the Local Authority the ability to establish their own local arrangements for handling complaints against councillors. The changes to the procedure set out in this report meet these requirements.

6.3 Property Implications

Not applicable

7. KEY RISKS

That the procedure is not clear and the process is open to challenge.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All and Strong Communities

A strong ethical approach by the Council and the promotion of good conduct on the part of members will have a positive effect on their representational role and a consequential impact on communities.

9. EQUALITIES IMPACT IMPLICATIONS

The proposals within this report will help to ensure fair, equal and consistent treatment of complaints against councillors for all parties concerned.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

There are no performance management implications

11. PUBLIC HEALTH IMPLICATIONS

There are no public health implications.

Background Papers

None