

MEETING TITLE AND DATE**Council**

22 November 2017

REPORT OF:Jayne Middleton-Albooye – Head of
Legal Services

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Agenda - Part: 1**Item: 10****Subject:** Review of Councillor Code of
Conduct Procedures for Handling and
Hearing Complaints against Elected and
Co-Opted Members**Wards: Not Ward Specific****Key Decision No: N/A****Cabinet Member consulted:**

Not Applicable

1. EXECUTIVE SUMMARY

The report is to seek Council's approval for changes to the Councillor Code of Conduct procedures for handling and hearing Complaints against Councillors and Co-opted members.

On 5 October 2017 the Councillor Conduct Committee agreed to recommend changes to the procedure for handling complaints against elected and co-opted members which are put forward in this report.

The changes concern the ability of the Monitoring Officer to pursue complaints, even when they have been withdrawn by the complainant and to include the procedure for hearing complaints in the Council Constitution.

2. RECOMMENDATIONS

That Council approve:

- 2.1 A change to the Councillor Code of Conduct procedures for handling complaints against elected and co-opted members to enable the Monitoring Officer to pursue complaints if she/he thinks that these warrant further investigation even if they have been withdrawn. The full text of the change is included in para 3.5 of the report.

2.2 To include the procedure for hearing complaints (as attached as appendix 2 to this report) as an appendix to the Councillor Code of Conduct in the Council Constitution.

3. BACKGROUND

- 3.1 The Procedure for Handling Complaints against Councillors and Co-opted Members, attached as Appendix 1, was adopted by Council on 4 July 2012 and previously amended by the Councillor Conduct Committee on 22 October 2013. Given that the last review was over 3 years ago, at its meeting on 10 October 2016, the Committee asked the Monitoring Officer to carry out a review of the procedure and report back to the Councillor Conduct Committee with recommendations for any changes.
- 3.2 The recommendations were considered and agreed for recommendation to Council by the Committee on 6 October 2017 and are now being put forward to Council for agreement. The changes are also supported by the Council's two Independent Persons.
- 3.3 The procedure sets out the current process for dealing with complaints.
- 3.4 It currently has no provision to allow the Committee or the Council Monitoring Officer in consultation with the Independent Person(s) the flexibility to consider complaints which have either been withdrawn or have been resolved in another way, This provision could be required where a serious breach has occurred or where it is in the public interest for it to be considered by the committee.
- 3.5 As part of the review the Monitoring Officer looked at inserting an additional paragraph into the Procedure for Handling Complaints against Councillors and Co-opted Members under Paragraph 5, Consideration of Complaints by Monitoring Officer, which would give the Monitoring Officer in consultation with an Independent Person(s) the authority to pursue further a potential breach of the code even if it had been withdrawn:-
- “Where a registered complaint is subsequently withdrawn or resolved outside the Procedure, the Monitoring Officer in consultation with Independent Persons(s) has the discretion to decide if the matter has been adequately and/or proportionately resolved or whether, given the substance of the original complaint, it should be escalated to the Committee for further consideration/resolution”.
- 3.6 The procedure for hearing complaints was first agreed by Council in ??? (appendix 2). It was not included in the Council Constitution with the Code of Conduct and the Procedure for Handling Complaints. The Councillor Conduct Committee agreed that this was an omission and that it made

sense for it to be included so that all the necessary complaints information can be found in one place.

4. ALTERNATIVE OPTIONS CONSIDERED

To leave the complaints process unchanged but this would mean that there would continue to be no provision to enable the Monitoring Officer to continue with a complaint where he/she feels it is necessary.

5. REASONS FOR RECOMMENDATIONS

As set out in the report

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

6.1 Financial Implications

There are no financial implications. Any changes will be covered within existing resources.

6.2 Legal Implications

The Localism Act 2011 (“the Act”) sets out the requirements for local authority to secure a code of conduct and to ensure arrangements are in place to investigate allegations of misconduct of Councillors. The report complies with the Act.

6.3 Property Implications

There are no property implications

7. KEY RISKS

None identified

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All , Growth and Sustainability and Strong Communities

The proposals in the report meet the council priorities.

9. EQUALITIES IMPACT IMPLICATIONS

An equality impact assessment was not necessary for this decision.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

There are no performance management implications.

11. PUBLIC HEALTH IMPLICATIONS

There are no public health implications.

Background Papers – None

Appendix 1: Procedure for Handling Complaints against Councillors and Co-opted Members.

Appendix 2: Procedure for Hearing Complaints against Councillors and Co-opted Members.