

GOVERNANCE COMMITTEE

28 JUNE 2016

REPORT OF MEMBER COMPLAINTS TASK GROUP

REVIEW OF MEMBER COMPLAINTS PROCESS

1.0 PURPOSE OF REPORT

1.1 To recommend a revised member complaints process.

2.0 RECOMMENDATIONS

2.1 To agree the revised Member Complaints Process (Appendices A and B) including a revised Complaints Form (Appendix C). To recommend to Full Council the revised process.

3.0 KEY ISSUES

3.1 The current complaints process was agreed by Full Council in July 2012. It is in line with the Localism Act 2011. It has been supplemented by guidance notes (that are included in the Constitution) since 2012 but the actual process remains unchanged since that date.

3.2 The Monitoring Officer currently has no delegated authority to close a complaint under the current process unless it is not a complaint under the code of conduct or it is resolved at the informal resolution stage with the agreement of the complainant.

3.3 The proposed revised process gives the Monitoring Officer additional powers (in consultation with the Independent Person and Chair or Vice Chair of Governance Committee) to choose to:

- Make a decision at stage 1 regarding taking no action, other action or sending for investigation.
- Close a complaint where the Investigation finds no potential breach of the code of conduct.

3.4 There are certain elements which must be included in the process in order to comply with the legislation. (Localism Act 2011). These are detailed below in paras 3.5 to 3.10.

3.5 The first stage must include a decision as to no action or to send for investigation. The current first stage also gives the option to take 'other action'. This is not required by the legislation but is normal practice in other authorities and has been used previously by the Sub Committee.

3.6 If a complaint is sent for investigation and the investigating officer finds a case to answer there must be a hearing at stage 2. This must include the view of an independent person. This must include a Parish Representative if the subject member is a parish councillor.

- 3.7 Censure is the only option if a breach of the code of practice is found at stage 2.
- 3.8 The Council is required to deal with complaints against Parish Councillors under the legislation. The findings are then referred to the Parish Councils who may choose not to accept the findings.
- 3.10 Complaints that allege a non disclosure of a disclosable pecuniary interest are potentially a criminal offence. Such cases will be forwarded to the Police as appropriate.
- 3.11 The independent person view is sought at stage 1 under the current procedure. This is not required (at this stage) by the legislation. It has however been useful to the sub committee in the past in order to assist them with deciding, no action, other action or to send for investigation. It is therefore proposed to keep this in the revised process.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 Strong Corporate Governance is important in order to ensure high standards of conduct are maintained.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 The implementation of the new requirements have impacted on administrative and financial resources.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 Of particular note in the Localism Act is the change making the non-registration of a disclosable pecuniary interest within 28 days a criminal offence.

7.0 COMMUNITY SAFETY

- 7.1 There are no specific community safety implications in this report.

8.0 EQUALITIES

- 8.1 An Equalities Screening Assessment has been completed and outlines the Council's responsibilities with regard to matters within the report under the Localism Act.

9.0 RISKS

- 9.1 The risks associated with the report are considered to relate to managing the requirements of the Localism Act and the implications of this not being followed by Councillors impacting on the Council's decision-making process and reputation.

L I K E L I H O O D	A	Very High				
	B	High				
	C	Significant				
	D	Low		1		
	E	Very Low				
	F	Almost Impossible				
				Negligible 1	Marginal 2	Critical 3

IMPACT

Risk No	Risk Description
1	Decisions of the Monitoring Officer and/or Sub Committees challenged due to processes not followed in line with legislation and the Council's agreed process.

10.0

CLIMATE CHANGE

10.1 Publishing the Registration of Disclosable Pecuniary Interest forms and information on the Councillor Complaints process to the website encourages paper free access to information and helps to meet the Council's green targets.

11.0 CONSULTATION

11.1 There is consultation with the Independent Persons on Member complaints that are referred to the Sub Committees as well as with the Parish Representatives on Parish Councillor complaints.

12.0 WARDS AFFECTED

12.1 All indirectly.

Contact Officer: Angela Tebbutt, Monitoring Officer
Date: June 2016
Appendices: Appendix A - Complaints Process Flowchart
Appendix B – Complaints Process Guidance
Appendix C – Members Complaints Form
Background Papers: Localism Act 2011
Minutes of Council Meeting held on 18 July 2012
Minutes of Council Meeting held on 17 July 2013
Minutes of Council Meeting held on 11 December 2013
Previous Minutes of Standards Committee
Previous Minutes of Governance Committee
Reference: X : Committees – Task Groups – Member Complaints Process Review