



**Standards and Constitutional Oversight Committee**

**31 January 2019**

<b>REPORT TITLE:</b>	<b>Arrangements for dealing with complaints against Members</b>
<b>REPORT OF:</b>	<b>Director of Governance and Assurance</b>

**REPORT SUMMARY**

In 2014 the Council adopted a Members' Code of Conduct and a process for dealing with complaints made under that code following the changes to the ethical standards regime introduced by the Localism Act 2011. Since 2014 there has been experience of dealing with complaints which has highlighted areas for improvement and clarification in the arrangements for dealing with complaints made under the Members' Code of Conduct. In particular, issues have been raised in relation to the timeliness with which complaints have been dealt with under the current protocol. This report seeks authority to adopt a revised procedure for investigating and making decisions in relation to allegations made under the Members' Code of Conduct.

**RECOMMENDATION/S**

That the Committee agrees:

- (a) To adopt a revised procedure for dealing with complaints made under the Members' Code of Conduct in accordance with the revised Protocol document attached at Appendix A.
- (b) That the revised Protocol is made available on the Council website.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. The proposed amendments will improve the clarity of the process and will provide the Standards and Constitutional Oversight Committee and the Monitoring Officer with the opportunity of dealing with complaints in a timely manner in accordance with what is currently felt to be professional best practice. They will also provide clarity and transparency for the general public.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 That the current protocol for dealing with complaints against Members remains unchanged.
- 2.2 That the current protocol for dealing with complaints against Members is changed in some other way.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Committee's terms of reference, contained in Article 9 of the Council's Constitution, include to:
  - (vi) establish, amend or revise arrangements under which allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members can be investigated (which shall include but not be limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are considered necessary for the effective and timely investigation of allegations); and
  - (vii) establish, amend or revise arrangements under which decisions on allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Members' Code of Conduct can be made (which shall include but not be limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are considered necessary for effective and timely decision making).
- 3.2 This reflects the Council's duties as imposed by s27 of the Localism Act 2011, which requires the authority to have in place arrangements under which allegations that a Member or co-opted Member of the authority has failed to comply with the authority's code of conduct can be investigated and arrangements under which decisions on those allegations can be made.

- 3.3 The Council accordingly adopted a published procedure document on the introduction of the Localism Act, entitled "*Arrangements for investigating and making decisions in relation to allegations made under the members' Code of Conduct*", which is attached as Appendix A with amendments shown in italics and underlined.
- 3.4 There has now been experience of dealing with complaints under these arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct over several years. A review of the complaints logged under this procedure since 2012, to assess whether the existing structures, processes and practices are conducive to investigating alleged breaches fairly and with due process, highlighted areas for improvement and clarification.
- 3.5 At the meeting of the Standards and Constitutional Oversight Committee on 7 November 2018 the Committee resolved that:
- (1) the Committee is delighted that there is now a dedicated officer team in place to deal with complaints against Members;
  - (2) officers be requested to draw up a new bespoke Protocol which details arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct, by reviewing and revising its current one and taking account of the views expressed and proposals and suggestions put forward by Members at this meeting; and
  - (3) a Special meeting of the Committee be convened in January 2019 to consider and adopt the new bespoke Protocol.
- 3.6 The Protocol which details arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct, has now been reviewed and revised taking account of the views expressed and proposals and suggestions put forward by Members. A draft revised Protocol is attached to this report. The revised Protocol differs from the Council's current Protocol in three important ways.
- Firstly, it provides for the Monitoring Officer in their discretion to refer complaints to an Assessment Panel of the Standards and Constitutional Oversight Committee in order to assess more serious or complex allegations and for that Assessment Panel to take the decision as to whether a formal investigation is merited where he/she feels it reasonable and appropriate to do so.
  - Secondly, it provides for the Monitoring Officer to submit a report to the Standards and Constitutional Oversight Committee or Assessment Panel where he/she believes that the complaint will not be dealt with within an overall timescale of 6 months.

- Thirdly, there is included a clear set of criteria against which to assess an allegation of breach, including public interest reasons, and this will be published for potential complainants to see.

3.7 It is the Monitoring Officer's view that the draft revised Protocol in particular, provides helpful guidance in relation to the procedure to be followed during the process and hearings of complaints by the Standards Panel and Standards Appeal Panel.

3.8 If adopted, it is felt that the proposed amendments would enable a greater level of Member involvement and will streamline the process for dealing with minor complaints, allowing for a faster resolution for suitable matters. The revised Protocol will also provide greater consistency in resolving complaints.

3.9 It is also proposed that the revised Protocol be placed on the Council's website so that it is readily accessible to the public.

#### **4.0 FINANCIAL IMPLICATIONS**

There are no financial implications associated with the adoption of the revised protocol for investigating and making decisions in relation to allegations made under the members' Code of Conduct.

#### **5.0 LEGAL IMPLICATIONS**

The Council must act in accordance with the legislative requirements of Chapter 7 (Standards) of the Localism Act 2011 when dealing with ethical standards.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

There are no resource implications associated with the revised Protocol document "Arrangements for investigating and making decisions in relation to allegations made under the members' Code of Conduct".

#### **7.0 RELEVANT RISKS**

Adopting the revised Protocol document "Arrangements for investigating and making decisions in relation to allegations made under the members' Code of Conduct" will streamline and clarify the process for dealing with allegations allowing for a faster resolution for suitable matters and reduce the risk of delay in the process.

## **8.0 EQUALITY IMPLICATIONS**

The Code of Conduct and the Protocol document “Arrangements for investigating and making decisions in relation to allegations made under the members’ Code of Conduct” and its implementation must adhere to equality and human rights legislation under the relevant Acts. The revised Protocol document will ensure that these matters are addressed when investigating and making decisions in relation to allegations made under the members’ Code of Conduct.

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### **APPENDICES**

- A:** Amended Wirral Protocol “Arrangements for investigating and making decisions in relation to allegations made under the members’ Code of Conduct”