

Item No. 13.	Classification: Open	Date: 22 November 2022	Meeting Name: Audit Governance and Standards Committee
Report title:		Members' Code of Conduct Complaints Procedure	
Ward(s) or groups affected:		All	
From:		Doreen Forrester-Brown, Director of Law and Governance and Allan Wells, Specialist Governance Lawyer	

RECOMMENDATION

1. That the audit, governance and standards committee agrees the proposed updates to the Members' Code of Conduct Complaints Procedure as indicated in Appendix 1.

BACKGROUND INFORMATION

2. The council is required by the Localism Act 2011 to have in place arrangements under which allegations that a member has failed to comply with the council's Members' Code of Conduct are investigated and determined.
3. The latest version of these arrangements was agreed in December 2016. As a result of matters arising from complaints that have been investigated since then, the Monitoring Officer considers there are some aspects of the arrangements that are not sufficiently clear and proposes some changes shown in the tracked version attached as Appendix 1.
4. Included in the roles and functions of the committee is the provision of a framework to promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives. This procedure forms part of that framework but as it is not part of the council's constitution it does not need to be approved by council assembly.

KEY ISSUES FOR CONSIDERATION

5. The proposed changes to the arrangements are shown in the tracked version attached as Appendix 1. In particular the following changes are proposed.
 - a. The heading for the arrangements should more clearly represent what the procedure covers.

- b. There should be provision for a letter of instruction from the Monitoring Officer when appointing an investigating officer. This should set out clearly the terms of the investigation, request an investigation plan, and include clarification about the data protection arrangements in relation to any material produced during the investigation.
 - c. Clarification about the process to be followed in the event that the Monitoring Officer agrees local resolution in a case where an investigating officer has determined that a breach of the code has occurred.
6. If the Monitoring Officer considers that a complaint should be fully investigated, it is important for all parties concerned to be clear about the ambit of the investigation. The arrangements therefore should be clear about what information is provided to the investigator in carrying out their investigation.
 7. The procedure already makes provision for the draft report to be shared in confidence with the member who is the subject of the investigation, and to the complainant to enable their comments to be received. A final report is then produced which is sent to the Monitoring Officer. The Monitoring Officer considers that the letter of instruction to the investigator should specifically deal with any documentation supplementary to the report, eg notes of interviews, and be clear about any confidentiality issues relating to these.
 8. After an initial assessment the Monitoring Officer may decide that the matter is best dealt with by local resolution without the need for a formal investigation. The amendments to the procedure make it clear that after such a decision is made the Monitoring Officer will send out a decision notice to all parties to confirm that she will be taking this approach.
 9. Similarly, in cases where an investigation is carried out, the Monitoring Officer may decide after a report is produced that the matter can be dealt with by local resolution without the need for a hearing. In such cases the procedure makes it clear that a report will then be presented to the conduct sub-committee of the audit governance and standards committee for noting but no further action would then be required by the Monitoring Officer or the sub-committee.

Actions required and next steps

10. The committee is being asked to consider the proposed changes and consider whether any further changes are appropriate. Any recommendation will then be put to the council assembly to formally approve the arrangements. This will be with a view to producing a report seeking agreement from Council Assembly in November 2022 to updated arrangements.

Policy framework implications

11. This report is not considered to have direct policy implications.

Community, equalities (including socio-economic) and health impacts

12. There are no specific community, equalities (including socio-economic) and health impacts arising from this report.

Climate change implications

13. There are no climate change implications arising from this report.

Legal implications

14. The council is required by the Localism Act 2011 to have in place arrangements under which allegations that a member has failed to comply with the council's Members' Code of Conduct are investigated and determined.

Financial implications

15. There are no financial implications arising from this report.

Consultation

16. The corporate governance panel, the group whips and the constitutional steering panel have all been consulted and have not made any further recommendations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	Members' Code of Conduct Complaints Procedure with tracked changes

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Law and Governance	
Report Authors	Allan Wells, Specialist Governance Lawyer	
Version	Final	
Dated	4 November 2022	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	4 November 2022	