

# Standards Committee



16 March 2022

<b>Title</b>	Revised arrangements for dealing with allegations of breaches of the Member Code of Conduct
<b>Purpose of the report</b>	To make a decision
<b>Report Author</b>	Victoria Statham, Monitoring Officer
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	Not Applicable
<b>Corporate Priority</b>	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
<b>Recommendations</b>	<b>Standards Committee is asked to approve the proposed revised arrangements for Member Code of Conduct complaints.</b>
<b>Reason for Recommendation</b>	Revising the authority's arrangements will ensure that complaints are dealt with consistently, fairly, transparently and proportionately thereby giving the public and councillors confidence in the process.

## 1. Summary of the report

1.1 This report seeks approval for proposed revisions to the Council's arrangements for dealing with allegations of a breach of the Code of Conduct by Members.

## 2. Key issues

2.1 As reported to the Standards Committee on the 20 October 2021 there were 50 complaints received between 1 January 2020 and October 2022. A further update on complaints at this meeting notifies members of a further two complaints that have been received. Dealing with the vast number of complaints has shown that the arrangements for dealing with complaints need to be updated and refined.

2.2 Under Section 28 of the Localism Act 2011 (the Act), the Council must have in place "arrangements" under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.

2.3 The only other requirement under the Act is that the arrangements agreed by the Council must include provision for the appointment by the authority of at least one independent person whose views are to be sought, and taken into

account, by the authority before it makes its decision on an allegation that it has decided to investigate.

- 2.4 The law does not specify how complaints are to be handled.
- 2.5 A review by the Committee on Standards in Public Life (CSPL), led to the publication of the revised Local Government Association Model Councillor Code of Conduct, which the Council adopted in 2021. The CSPL also made recommendations for a framework in dealing with complaints in order to ensure consistency and enhance public confidence in the process.
- 2.6 The proposals for the revised arrangements (Annexed to this report) are based on Local Government Association Guidance (the Guidance) arising from the CSPL recommendations and best practice.
- 2.7 It is for each local authority to decide its own practices and arrangements, however the process for dealing with Code of Conduct complaints must be fair and be seen to be fair.
- 2.8 Under the provisions of the current arrangements, it is for the Standards Committee to establish the arrangements and it is for the Monitoring Officer to then process complaints in accordance with those approved arrangements.

### **3. Options analysis and proposal**

#### **Option 1 – adopt revised arrangements**

- 3.1 Under [the existing arrangements](#), there is an expectation that the Monitoring Officer will refer all but the most obviously vexatious, frivolous or politically motivated complaints to an Assessment Panel comprising 3 members of the Standards Committee.
- 3.2 During the period January 2020 - November 2021, the Council received 50 complaints of which 38 were dismissed by the Monitoring Officer and 12 were sent to an Assessment Panel.
- 3.3 The Monitoring Officer recommended to the Assessment Panel that no further action was necessary in the case of 8 matters and that 4 matters should be referred for further investigation. The Assessment Panel agreed with the Monitoring Officer's recommendation in every case.
- 3.4 The process of setting up and convening several Assessment Panels for those 12 matters was time consuming and resulted in considerable delays in matters being heard. This has resulted in some loss of confidence in the current arrangements by members.
- 3.5 Monitoring Officers are at the heart of the standards framework. They promote, educate and support councillors in following the highest standards of conduct and ensuring that those standards are fully owned locally.
- 3.6 In order to satisfy the authority that an initial assessment of complaints can be carried out fairly, objectively and without undue delay, it is proposed under the revised arrangements that the Monitoring Officer is delegated to undertake a 2-step assessment, described by CSPL as the 'can/should' stages, based on specified criteria. (Appendix 2 to the proposed arrangements).
- 3.7 The proposed revised arrangements incorporate other processes detailed in the Guidance:
  - (a) Improved timescales for assessing complaints

- (b) An alternative process for assessment of a complaint by a Panel of members where the Monitoring Officer considers it appropriate based on specified criteria
  - (c) No right of appeal against a decision not to take any further action in order to operate an efficient and proportionate system.
  - (d) Consultation with the Independent Person at every stage before a proposed course of action is followed
  - (e) Best practice for conducting investigations and producing a final report
- 3.8 The investigation process has been set out in a flowchart for the first time, for clarification and is attached at Appendix 3 to the proposed arrangements.

#### **Option 2 – Amend revised arrangements**

- 3.9 The Standards Committee may make such amendments to the proposed revised procedures as it considers appropriate.

#### **Option 3 – Retain existing arrangements**

- 3.10 Retaining the existing arrangements would not result in any improvements to the timeliness with which complaints are dealt with and consequently the levels of satisfaction and confidence in the Council's processes.
- 3.11 The existing arrangements do not reflect best practice guidance resulting from the review by the Committee on Standards in Public Life.
- 3.12 Whichever option the Standards Committee chooses to progress, it should be noted that the sanctions which can be imposed on those who are found in breach of the code of conduct are limited by statute. The sanctions which can be imposed are:
- (a) require the Member to apologise either privately or in public;
  - (b) require the Member to attend training;
  - (c) censure the Member;
  - (d) send a report to Council to censure the Member;
  - (e) require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the councillor's conduct;
  - (f) withdraw privileges provided by the Council such as computer equipment, internet or email access;
  - (g) recommend to the councillor's group leader that the councillor be removed from a Committee, or an outside body (as appropriate); or,
  - (h) a combination of any of the above.

#### **4. Financial implications**

- 4.1 There are no financial implications arising from the proposals in this report.

#### **5. Other considerations**

- 5.1 Details of the updates to the Arrangements for Dealing with complaints will need to be promoted to all councillors so that they are conversant with the provisions. With these new arrangements, the new code of conduct and the

corporate values, members will be fully aware of the standard of conduct expected of them.

- 5.2 The Committee may want to consider whether all councillors would benefit from a short training session on the new provisions if adopted.

## **6. Equality and Diversity**

- 6.1 The proposed arrangements will continue to ensure that the principles of fairness, proportionality, transparency and impartiality will still apply in the way the Council deals with Code of Conduct complaints.

## **7. Sustainability/Climate Change Implications**

- 7.1 The proposals have no bearing on sustainability or climate change issues.

## **8. Timetable for implementation**

- 8.1 The proposed revised arrangements will be considered by the Standards Committee on 16 March 2022 and if approved will be effective immediately and published on the Council's website.

- 8.2 Any complaints received before the Committee considers this matter will be dealt with under the existing Arrangements.

## **9. Contact**

- 9.1 Victoria Statham, v.statham@spelthorne.gov.uk

**Background papers:** There are none.

### **Appendices:**

**Proposed revised arrangements for dealing with complaints**

**Appendix 1 - Proposed revised arrangements process flowchart**

**Appendix 2 - Proposed criteria to support the revised process**

**Appendix 3 – Proposed investigation process flowchart**