

STANDARDS COMMITTEE



Report subject	Procedure for Initial Complaint Assessment
Meeting date	9 July 2019
Status	Public Report
Executive summary	<p>The Standards Committee has statutory responsibility for promoting and maintaining high standards of conduct of councillors. This includes the handling and processing of complaints made against councillors for a breach of the code of conduct.</p> <p>This report seeks to establish arrangements for undertaking the initial assessment of such complaints.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>the proposed arrangements for initial assessment of allegations of breach of the Code of Conduct for Councillors, as set out in Appendix 1 to this report, be adopted.</p>
Reason for recommendations	<p>To establish a robust and consistent procedure for the initial assessment of all complaints made against councillors of an alleged breach of the relevant code of conduct.</p>

Portfolio Holder(s):	Councillor Vikki Slade (Leader of the Council)
Corporate Director	Julian Osgathorpe (Corporate Director Resources)
Contributors	Richard Jones, Head of Democratic Services
Wards	Authority-wide
Classification	For Decision

Background

1. The Standards Committee has statutory responsibility for promoting and maintaining high standards of conduct of councillors including councillors of local parish and town councils.
2. The Council's Constitution adopted by the Shadow Authority established the principal arrangements for promoting good standards of behaviour of councillors (Article 10), including responsibility for monitoring and overseeing the effectiveness of the arrangements for dealing with complaints and the review of the Code of Conduct.
3. The statutory role of the Council's Monitoring Officer further contributes to the promotion of high standards of conduct.

Roles and Responsibilities of the Standards Committee

4. The Constitution further defines that the Standards Committee will have responsibility for:-
 - (a) Monitoring the Code of Conduct and arrangements for dealing with complaints against Councillors and making recommendations to Full Council on any changes to the Code
 - (b) Promoting and maintaining the Council's responsibilities for ethical governance and high standards of conduct
 - (c) Ensuring that appropriate advice and training is provided to Councillors in respect of ethical governance and the Code of Conduct
 - (d) Supporting the Monitoring Officer in discharging their duties in regard to the conduct and behaviour of Councillors
 - (e) Promoting the observance of the ethical governance agenda within Parish and Town Councils in its area
 - (f) Considering the outcome of investigations undertaken pursuant to the arrangements for dealing with allegations of a breach of the Code of Conduct
 - (g) Making arrangements for suitable liaison as appropriate with the statutory Independent Persons in the course of dealing with an allegation of breach of the Code of Conduct

- (h) Considering an Annual Report on Gifts and Hospitality Registers relating to Councillors.

Code of Conduct

5. Part 6 of the Council's Constitution includes the Councillors' Code of Conduct, the Disclosable Pecuniary Interest requirements, the Councillor/Officer Protocol and the arrangements for dealing with allegations of breach of the code of conduct for councillors. These will each require a formal review by the Committee and are included in the work programme as a separate item on the agenda.
6. The arrangements for dealing with allegations of breach of the code of conduct for councillors outlines the high-level process to be followed upon receipt of a complaint.
7. The process provides for an initial filtering process for the Chairman of the Standards Committee in consultation with councillors of the Standards Committee and Monitoring Officer to decide whether:-
 - There is no breach of the Code and no further action should be taken; or
 - There is a potential breach of the Code and informal resolution is appropriate, to include for example mediation, training, apology, advice; or
 - There is a potential breach of the Code and the Monitoring Officer should undertake or commission an investigation into the complaint with a view to a report then being considered by the Standards Committee.
8. Although this process has been adopted, it is considered important to establish a clear and more detailed procedure which is clear and transparent for all parties. These matters include defining:-
 - Who will be authorised to participate in this process.
 - How the consultation shall take place.
 - Establishing the criteria to be used in determining that no further action should be taken.
 - Defining what should be included as being a suitable informal resolution.
9. Appendix 1 to this report sets out the proposed procedure addressing each of these points.
10. This procedure only deals with the initial assessment stage of a complaint. A complaint which is deemed to be serious enough to proceed to a formal hearing will be referred to the full Standards Committee for consideration.

Resource Implications

11. There are no additional manpower implications arising from this report.

Funding

12. The delivery of the process proposed in this report will be met from existing resources and do not require any additional funding.

Summary of financial implications

13. There are no financial implications arising from this report, however, conducting the consultation electronically will reduce the cost of convening formal assessment meetings and the associated travel and expense claims.

Summary of legal implications

14. The Council is required to put in place procedures for investigating and responding to complaints made against councillors of both BCP Council and the Town and Parish Councils within the area.

Summary of human resources implications

15. There are no anticipated requirements for additional manpower resources.

Summary of environmental impact

16. There are no significant and quantifiable environmental implications arising from this report, however, conducting the initial assessment electronically will reduce the vehicle mileage of potential attendees and the consequential environmental impact.

Summary of public health implications

17. There are no public health implications arising from this report.

Summary of equality implications

18. There are no equality implications arising from this report. Appropriate support would be provided to any complainant requiring assistance.

Summary of risk assessment

19. There are no significant risks identified with this report. The consultation process will be carefully monitored to ensure that those engaged can participate fully whilst reducing the cost of convening formal assessment meetings which incur greater costs and expenses.

Background papers

Published works

Appendices

Appendix 1 – Proposed Arrangements for Initial Assessment of Allegations of Breach of the Code of Conduct for Councillors

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL

ARRANGEMENTS FOR INITIAL ASSESSMENT OF ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS

1. DEFINITIONS

- 1.1. Any reference in the procedures to the Council's Monitoring Officer shall be deemed to include any designated Deputy Monitoring Officers and those designated officers shall be permitted to act on behalf of the Monitoring Officer on all matters.
- 1.2. Reference to consultation with councillors of the Standards Committee, shall include the Independent Persons appointed the Council.
- 1.3. Where the Chairman of the Standards Committee possesses a conflict of interest with regards to any complaint, the responsibilities of the Chairman shall transfer to the Vice-Chairman.

2. METHOD OF CONSULTATION

- 2.1. Consultation with Councillors and Independent Persons of the Standards Committee shall be undertaken electronically via email. A minimum period of five working days shall be given for councillors and the independent persons to respond.

3. CRITERIA TO BE USED IN DETERMINING THAT NO FURTHER ACTION SHOULD BE TAKEN

- 3.1. A complaint may be dismissed as requiring no further action at the initial assessment stage where:-

The Chairman, in consultation with councillors of the Standards Committee, the Independent Persons and the Monitoring Officer considers that:-

- (i) the person complained about is no longer a member of the relevant local authority; or
- (ii) the matter being complained about happened more than 12 months before the complaint was received; or
- (iii) the matter or issue being complained about came to the complainant's notice more than 6 months before the complaint was received; or
- (iv) insufficient information has been submitted at the outset to demonstrate that there has been a prima facie breach of the Code;
or

- (v) the complaint is based essentially on hearsay evidence and is not supported at the outset by detailed and verifiable supporting evidence; or
- (vi) the complaint does not relate to behaviour in the member's official capacity as a councillor; or
- (vii) the matter complained about is so trivial that it would not be in the public interest or proportionate to pursue it further; or
- (viii) the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant; or
- (ix) the conduct complained about has already been the subject of investigation or enquiry by another public body; or
- (x) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and there is nothing further to be gained; or
- (xi) the complaint was made anonymously; or
- (xii) the complainant has requested that their identity as complainant be withheld from the member, and it is considered that the matter cannot reasonably be taken further in these circumstances; or
- (xiii) the councillor has already apologised for the action that was the subject of the complaint, and this is considered sufficient to dispose of the complaint; or
- (xiv) the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual councillor(s).

4. APPROPRIATE INFORMAL RESOLUTION

- 4.1. Where it is considered that a potential breach of the Code of Conduct has occurred it may still be deemed appropriate and pragmatic to impose an informal resolution.
- 4.2. Informal resolutions may include assistance with mediation between the parties concerned, the provision and attendance at appropriate training courses, a suitable apology to affected parties, or advice to the councillor concerned.
- 4.3. The use of informal resolution should only be used, however, where the councillor being complained about accepts that a potential breach has occurred, and is willing and commits to the proposed resolution, and the complainant accepts the resolution as a suitable recourse, and would have the desired outcome to change or cease the offending behaviour.