

## **Report to Standards Committee**

1<sup>st</sup> December 2021

Sharon Evans, Monitoring Officer

**DECISION REQUIRED**

Not Exempt

### **Review of Procedure/Arrangements dealing with Code of Conduct Complaints**

#### **Executive Summary**

A report to the Standards Committee to inform and update Members on the Working Group review of the procedures and arrangements in dealing with Standards code of conduct complaints.

The Standards Committee to consider the revised process and procedure and to decide whether to recommend to Full Council the adoption of the revised procedure, with or without further amendments.

#### **Recommendations**

That the Standards Committee recommend to Full Council adoption of the revised procedure in dealing with code of conduct complaints.

#### **Reasons for Recommendations**

- (i) The current published procedure is detailed within a number of different documents and is repetitive and can be difficult to follow. The revised procedure brings everything together into one simplified clear document.
- (ii) The revised procedure will ensure that the Standards Committee and the Monitoring Officer are able to deal with code of conduct complaint cases in an efficient, timely, proportionate, just, and transparent way.
- (iii) Best practice recommendations are incorporated within the revised procedure.

#### **Background Papers**

The Localism Act 2011

#### **Wards affected:**

ALL

**Contact:** Sharon Evans, Monitoring Officer 01403 215538

## **Background Information**

### **1 Introduction and Background**

- 1.1 All Councils are required to have a Member Code of Conduct and the current and existing code for Horsham District Council is detailed within Part 5a of the Constitution.
- 1.2 The Council is required under the Localism Act to have arrangements in place for allegations to be investigated in relation to breaches of the code of conduct and arrangements which decisions on allegations can be made. The current published process and procedure whilst being thorough and detailed requires updating and clarity.
- 1.3 A thorough review of the procedure in dealing with code of conduct complaints has been undertaken by a Working Group that was convened following the last Standards Committee. A draft revised procedure has been produced, which although based upon the previous procedure has been improved, updated, amended, and aligns with current best practice. The revised procedure is much clearer, concise and is contained in one easily read, streamlined document.

### **2 Relevant Council policy**

- 2.1 The statutory background can be found in the Localism Act 2011, Part 1 Chapter 6 and the Regulations made under that Act.

### **3 Details**

#### **Review of procedure / arrangements dealing with Standards Complaints**

- 3.1 There has been an ongoing review of the procedure and arrangements in dealing with Standards complaints. The Council has adopted the new the Local Government Association (LGA) Model Code of Conduct with minor amendments and the LGA has recently published guidance, giving working examples and explanatory text and general interpretation guidance on the Model Code of Conduct. It is therefore considered the right time to introduce new arrangements and a revised process and procedure in dealing with Standards complaints.
- 3.2 Generally, due to the increased volume, mainly from Parish Council complaints, and the level of detail, (sometimes historical), and the complexity within the complaints and the surrounding work involved, means that complaints are taking up a large amount of the Legal Department's time and resource.
- 3.3 Whilst the current arrangements and the published process and procedure in dealing with standards complaints is comprehensive and very detailed, it is difficult to follow and can be confusing as it is spread across different guidance and documents. Currently there is, a detailed complaint form which includes other information, together with guidance for potential complainants, guidance for Members and a procedure for Local Investigation of assessed complaints. The current procedure and complaint form can be found at the following link:  
<https://horsham.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13119>

3.4 The main differences between the new revised and proposed procedure and arrangements and the existing published process are as follows:

- One streamlined document and simplified complaint form.
- A 28 day deadline to make the complaint, unless exceptional circumstances apply. This will restrict historical and dated complaints continually being made.
- Easier to enable the Monitoring Officer to reject complaints if information is not provided in the correct form. The complaint form is more prescriptive as to what is the correct way of making the complaint and should result in clearer complaints and easier assessment.
- Requirement for Monitoring Officer to consult with Independent Person at assessment stage.
- In Parish Councillor cases, that go to the Formal Investigation stage, the Parish Representative *may* be consulted but does not necessarily have to, and there is no right for the subject member to consult with the Parish Representative. Also, the Monitoring Officer can consult with the Parish Representative or the Independent Person at any stage of the process.
- Standards Sub-Committee dealing with a determination can deal with cases on the papers, without the subject member or complainant having a right to speak, unless there are good reasons to have personal testimonies and attendance or a right of audience.
- Standards Sub-Committee meeting dealing with a determination whether on papers or otherwise should be conducted wherever possible in public, unless there are circumstances that make it appropriate for the meeting or part of the meeting to be held in private.
- Independent Person to sit on Standards Sub-Committees as non-voting member in relation to the determination of allegations of breaches and then if appropriate imposing or recommending sanctions. This ensures their views are always considered.
- Decision Notices following a Formal Investigations and determinations are published on the HDC website.

3.5 The aim is to introduce a streamlined approach distinguishing early, those cases where no action is necessary or where it may be dealt with by Informal Resolution, with those that are in the Public interest to fully investigate, determine, and sanction and publish if appropriate. The new procedure will help facilitate this.

3.6 The new procedure is considered a clear, transparent and just way of dealing with code of conduct complaints where it is hoped that it will be quick and easy to identify the nature of the complaint, the seriousness of it and for it to be dealt with

appropriately in a timely and proportionate manner. It will assist with maintaining correct and consistent decisions across complaints and it will be compliant with best practice directives

3.7 A draft of the revised procedure, incorporating a new complaint form can be found at Appendix A.

3.8 By adopting the revised procedure with or without any further amendments, the Council, as Principal Authority will be able to adequately deal with its own code of conduct complaints together with any Parish and Neighbourhood Councils complaints within its District.

## **4 Next Steps**

4.1 If the revised procedure is adopted, then web site information and detail will be required to enable easy access and to explain the process.

## **5 Outcome of Consultations**

5.1 A draft of the revised process and new complaint form has been shared with all of the Standards Committee, including Independent Persons and Parish Representatives and have contributed to the drafting of the revised process.

## **6 Resource Consequences**

6.1 Following the revision of arrangements it is anticipated that standards complaint cases will be dealt with quickly, more effectively and efficiently and with less resource implications to the Legal Department.

## **7 Legal Considerations and Implications**

7.1 The Council has a statutory duty to promote and maintain high standards of conduct. The Council, under Section 28(6) and (7) must have in place “arrangements” under which allegations of failures to comply with the Code of Conduct can be investigated and decisions made on such allegations.

## **8 Risk Assessment**

8.1 There is a risk that if the Council does not have appropriate and clear arrangements, then a challenge might be brought and public trust in local democracy could be undermined.

## **9 Procurement implications**

9.1 There are no procurement implications stemming from this recommendation.

## **10. Equalities and Human Rights implications / Public Sector Equality Duty**

- 10.1 There is no detrimental impact on any group, a full Equalities Impact Assessment is not needed.

## **11 Environmental Implications**

- 11.1 There are no environmental implications from this recommendation.

## **12 Other Considerations**

- 12.1 There are no GDPR, Data Protection or Crime & Disorder consequences foreseen from this recommendation.