

WAVERLEY BOROUGH COUNCIL

COUNCIL

22 FEBRUARY 2022

Title:

Review of arrangements for dealing with Standards allegations against Councillors and Co-opted Members under the Localism Act 2011

Portfolio Holder: Cllr Paul Follows, Leader of the Council

Head of Service: Robin Taylor, Head of Policy & Governance and Monitoring Officer

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 On 1 February 2021 the Standards Committee considered proposed revisions to the arrangements for how the Monitoring Officer deals with complaints against councillors or co-opted Members, alleging a breach of their Code of Conduct. The arrangements apply to complaints against Waverley Borough councillors and co-opted Members, and to complaints against Town and Parish councillors within Waverley.
- 1.2 The Standards Committee was broadly supportive of the proposed revisions to the arrangements but asked that parish councils and the Independent Persons be given the opportunity to comment on the changes before they were recommended to Full Council for approval. The consultation took place over the summer and feedback was received from three parish clerks and three Independent Persons.
- 1.3 The arrangements for how the Monitoring Officer deals with standards complaints now reflect the feedback received and are presented to the Full Council for approval.

2. Recommendation

That the Council adopt the revised arrangements under which the Monitoring Officer will investigate a breach of the Code of Conduct.

3. Reason for the recommendation

To ensure the Council's arrangements for handling Standards allegations support an approach that is fair and clear to all concerned and encourages a timely resolution to complaints.

4. Background

- 4.1 Citizens have the right, under Waverley's Constitution, to complain to the Monitoring Officer if they have evidence which they think shows that a Councillor within the Waverley area, or a co-opted member, has not followed their code of conduct. The arrangements are set out within the Constitution. Paragraph 12 of the existing arrangements confirm that they should be kept under review.
- 4.2 The changes proposed aim to learn from the Monitoring Officer's experience of complaints and hearings since the arrangements were last reviewed. As well as considering how easy it has been to operate the arrangements, the Monitoring Officer has considered feedback received from those who have been involved in the process, including complainants, councillors, colleagues and Independent Persons.
- 4.3 The feedback received from parish clerks has been mixed: the opportunity to resolve matters informally at a local level has been welcomed by some, while others have expressed concern that the proposals appeared to be asking the clerks to act in place of the Monitoring Officer in carrying out informal investigations. They were concerned that this could be a conflict of interests and also jeopardise their ongoing working relationship with their parish councillors. As a result of this feedback the approach proposed in paragraph 3.5 has been modified to propose that the Monitoring Officer discusses the approach to be taken with the parish clerk.
- 4.4 The feedback from the Independent Persons referred to the wording of the document and in particular the way in which the arrangements described the process to the complainant and did not address the subject of the complaint. In light of these comments the wording in the document has been amended to be a more neutral description of how complaints are responded to.
- 4.3 Annexe 1 shows the proposed changes as tracked changes, taking account of the feedback received from parish clerks and Independent Persons. The following summarises the main changes proposed:
- (i) Inclusion of an Executive Summary of arrangements with the process divided into 9 numbered 'steps'.
 - (ii) Reference to the role of the Independent Person at the top of the document.
 - (iii) Confirmation that complaints by Borough Councillors about Borough Councillors will be referred to the relevant group leader(s) for resolution in the first place.
 - (iv) Confirmation that the approach to dealing with complaints about Town or Parish Councillors will be agreed by the Monitoring Officer, and the Town or Parish Clerk will be given the opportunity to resolve the complaint first.
 - (v) Confirmation that complainants' identities (but not contact personal details) will be disclosed to subject members in most circumstances.
 - (vi) Confirmation that many complaints can be resolved without an investigation, for example by advice being issued by the Monitoring Officer.

- (vii) Confirmation that most complaints, if investigated, will be investigated on an informal basis and that formal investigations are relatively rare.
- (viii) Confirmation that other officers act on the Monitoring Officer's behalf in dealing with complaints.
- (ix) Specific target timescales for responding to initial complainants and for dealing with matters on an informal basis whilst recognising this will depend on availability of others.
- (x) Confirmation that the Monitoring Officer reserves the right to progress the complaint in the absence of input from any party, especially where it is clear that individuals are deliberately choosing not to engage or to engage unreasonably slowly with the process.
- (xi) Clarification that hearing papers will be published 5 clear working days in advance of the meeting.
- (xii) Confirmation that appeals against panel hearings decisions need to be submitted within 10 working days of the conclusion of the panel hearing.
- (xiii) Confirmation that the Ombudsman will only consider complaints once they have been through the Council's own processes.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 The council is required by law to set out its arrangements for handling standards allegations and to keep these under review.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no costs arising from revisions to the arrangements for handling standards allegations. As is currently the case, there may be costs associated with investigations into standards allegations.

6.2 Risk management

N/A

6.3 Legal

The council is required by law to set out its arrangements for handling standards allegations and to keep these under review.

6.4 Equality, diversity and inclusion

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. However, Ombudsmen investigations can help to ensure that the Council delivers its services to all customers in a fair and equal way, and that any shortfall is rectified immediately.

6.5 Climate emergency declaration

There are no direct implications for the council's climate emergency declaration.

7. Consultation and engagement

7.1 The draft revised arrangements were sent to the town and parish clerks and to the Independent Persons, and the feedback received has been reflected in the revisions presented to the Committee for consideration on 6 December 2021.

8. Other options considered

8.1 The council is required to put in place arrangements under which it can investigate an allegation of a breach of a code of conduct, and to include the key elements as set out the Localism Act.

9. Governance journey

9.1 Any changes to the arrangements will be subject to the agreement of Full Council, on the recommendation of the Standards & General Purposes Committee.

Annexes:

Annexe 1 – Revised Arrangements for dealing with standards allegations against Councillors and Co-opted Members.

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date