

STANDARDS COMMITTEE

27 MARCH 2017

REPORT OF THE MONITORING OFFICER

A.1 COMPLAINTS PROCEDURE – REFERENCE BACK FROM FULL COUNCIL

(Report prepared by Lisa Hastings, Monitoring Officer)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

At the request of full Council to reconsider the Standards Committee's previous recommendation to amend the Complaints Procedure.

EXECUTIVE SUMMARY

The Standards Framework includes the Complaints Procedure (contained within the Members' Constitution Booklet). The Council's statutory duty is to promote and maintain high standards of conduct and build public confidence by demonstrating a commitment to maintaining positive behaviours in relation to all seven principles of public life.

Delegation has been given to the Monitoring Officer to undertake key elements of the complaints process to maximise independence from the political process.

Section 5 of the Complaints Procedure sets out how an investigation is conducted and under Section 5.6, the investigation report must contain a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct. Annex E of the Complaints Procedure sets out the Investigation Procedure.

If an investigation concludes that there is no evidence of a failure to comply with the Code of Conduct, the Council's Complaints Procedure at Section 6.1 provides the Monitoring Officer with the authority, in consultation with the Independent Person, to decide no further action is required. In such circumstances, the Monitoring Officer will notify the Standards Committee.

The current procedure, which was adopted by full Council in November 2013, does not provide the Monitoring Officer with any discretion to refer a matter to the Standards Committee, if they consider an investigation was finely balanced. In most cases, an investigator will have a clear conclusion as to whether any evidence existed of a failure to comply with the Code of Conduct but in rare circumstances; this might not be the position. The Monitoring Officer, when consulting colleagues in other authorities, found that their Councils had provided them with a discretion to refer to the Standards Committee, if they personally felt it was necessary to do so.

At the meeting of the Committee held on 26 September 2016 (minute no. 14 refers) and following discussion, it was moved by Councillor Nicholls, seconded by Councillor White and RESOLVED, inter alia, that the Standards Committee:

- (f) *Recommends to Council to amend the Complaints Procedure, as set out in the Constitution to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive and the Chairman of the Standards Committee, to decide to refer cases to the Committee for determination*

where the outcome of an investigation was to recommend no breach of the Code of Conduct.'

At the meeting of Council held on 22 November 2016, when that recommendation was being considered (minute 83 refers) Councillor Calver moved an amendment, which was seconded by Councillor Bray, that to have the ongoing confidence of the entire Council it required the possibility of any political interference to be removed and that the recommendation would be safer and stronger if any consultation was between the Chief Executive and the Monitoring Officer with no involvement of the Chairman of the Standards Committee.

Following those concerns raised by Members with respect to the original recommendation of the Standards Committee and pursuant to Council Procedure Rule 16.6 (Alteration of Motion), Councillor Stock, with the consent of both the meeting and his seconder, Councillor Heaney, indicated that he was prepared to alter his motion so that it read as follows:

(a) that the minutes of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted; and

(b) that consideration of the recommendation to Council, as contained in Minute No.14 (resolution (f)) of the Standards Committee of 26 September 2016 be deferred and that the matter be referred back to the Standards Committee for reconsideration.

Councillor Calver and Councillor Bray both then agreed to withdraw their amendment.

The Standards Committee are now requested to reconsider their proposed amendment to the Complaints Procedure taking into account the concerns raised at the meeting of full Council in November 2016.

RECOMMENDATION

That the Standards Committee agrees to recommend to Council to amend the Complaints Procedure, as set out in the Constitution to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive, to decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct.

BACKGROUND PAPERS

- Complaints Procedure
- Minutes of the meetings of Standards Committee on 26 September 2016 (minute 14) and Council on 22nd November 2016 (minute 83).