

## STANDARDS COMMITTEE

09 July 2025

### REPORT OF CORPORATE DIRECTOR (LAW AND GOVERNANCE) & MONITORING OFFICER

#### A.2 MEMBERS' CODE OF CONDUCT COMPLAINTS PROCEDURE REVIEW

##### PART 1 – KEY INFORMATION

###### PURPOSE OF THE REPORT

To present the Standards Committee with a proposed updated Complaints Procedure, reflecting best practice and case law for dealing with allegations that a Member has breached the Code of Conduct, for consideration for approval.

###### EXECUTIVE SUMMARY

The Council approved the Standards Framework with effect from November 2013 which included a Complaints Procedure. The Complaints Procedure refers to a hearing in paragraph 7.1.2 and that it will follow procedures setting out how the hearing will be conducted. The Hearing Procedure was reviewed by the Committee in April 2024.

The purpose of the Complaints Procedure is to set out the framework as to how a complaint alleging a breach of Members' Code of Conduct will be dealt with, providing clear information and process to both the Complainant and Subject Member. This review is being conducted as it is important to ensure the Council's procedures reflect best practice and are up to date.

The proposed amendments consider points raised from Members of the Standards Committee and the Council's Independent Persons following a workshop with Officers reviewing the Complaints Procedure; strengthening and clarifying the investigation process should an alleged breach be determined for investigation by the Monitoring Officer and the process following the decision to refer to the Standards Committee for a hearing.

###### RECOMMENDATION(S)

It is recommended that the Committee:

- (a) notes the contents of this report and provides comments through its debate on the draft amended Complaints Procedure, as set out in Appendix A and the associated flowchart in Appendix B;
- (b) subject to (a) recommends the draft amended Complaints Procedure set out in Appendix A to Full Council for approval and immediate adoption;
- (c) recommends to Full Council approving a delegation to the Standards Committee to amend the Complaints Procedure, following future reviews, for efficiency purposes and especially in readiness for Local Government Reorganisation preparation; and
- (d) subject to (c), endorses the Terms of Reference of the Standards Committee being amended to reflect the decision of Full Council.

## REASON(S) FOR THE RECOMMENDATION(S)

To comply with the decision of the Standards Committee in February 2025, minute no. 36 where Officers were requested to undertake a further review the Council's Complaints Procedure, proposes amendments as necessary and produces a flowchart detailing the process, following an investigation being concluded to referral for a hearing, where evidence of a breach has been found.

Officers were requested to then present a revised Council's Complaints Procedure, Standards Hearing Procedure and flowchart to a future meeting of the Committee, ensuring the Council's procedure follow best practice and case law.

Through the review, officers have taken into account the Local Government Association Guidance on Member Model Code of Conduct Complaints Handling.

## ALTERNATIVE OPTIONS CONSIDERED

An alternative would be not to amend the Complaints Procedure at this time, however this option is not recommended as it is important to ensure the Council's procedures reflect best practice and case law.

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

Part 6 Paragraph 1 of the Council's Constitution - Tendring District Council Complaints Procedure, states:

1.1 - These 'Arrangements' set out how you may make a complaint that an elected or co-opted Member (with voting rights) of this Authority ("Tendring District Council" or a Town or Parish Council within its area (see 1.3 below)) has failed to comply with the Member Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Member Code of Conduct.

1.2...

1.3 Town and Parish Councils within the Tendring District are set out on the Council's website.

Members' conduct falls within Principle A of the Council's Annual Governance Statement – behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.

### LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Council has formally adopted the Complaints Procedure which sets out the Council's 'arrangements' under **Section 28(6) and (7) of the Localism Act 2011 (as contained within Part 6 of the Council's Constitution)**. Tendring District Council must have in place 'arrangements' under which allegations that a Member or co-opted Member of the Authority (*or of a Town or Parish Council within the Authority's area*), or of a Committee or Sub-Committee of the Authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

Part 6 Paragraph 3.7 – The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise.

Part 6 Paragraph 4.1 – The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before making a decision as to whether the complaint:

4.1.1 Merits no further action

4.1.2 Merits early informal resolution or mediation

4.1.3 Merits further investigation

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

There are no finance or resources implications with this report.

#### **USE OF RESOURCES AND VALUE FOR MONEY**

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Localism Act 2011 sets out the District Council's statutory duties for dealing with Members' Code of Conduct complaints.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Part 6 Paragraph 12 of the Council's Constitution – The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Complaints Procedure should follow best practice, natural justice and case law ensuring that the Council's resources are used in an effective and efficient manner. The recommendation for a delegation from Council to the Standards Committee to approve future amendments to the Complaints Procedure demonstrates efficiency and effectiveness.

#### **MILESTONES AND DELIVERY**

The amended Complaints Procedure, once considered by the Standards Committee will require a recommendation onto Full Council for approval and adoption, before it can come into effect.

#### **ASSOCIATED RISKS AND MITIGATION**

Not presenting this information could have a detrimental impact on the Council's reputation.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

Standards Committee Members, Independent Persons and Officer workshops were conducted in reviewing the Complaints Procedure. This is a public document to be presented to the Standards Committee.

#### **EQUALITIES**

Equality considerations are taken into account for each decision made.

<b>SOCIAL VALUE CONSIDERATIONS</b>	
Social value considerations are taken into account for each decision made.	
<b>IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION</b>	
To ensure an efficient and effective way of working, and to respond to the requirement for a pre-unitary Joint Committee to recommend a Members Code of Conduct to the Shadow Authority for adoption, prior to its implementation, it is considered appropriate to request the delegation to the Standards Committee, to approve future amendments, following reviews in readiness for Local Government Reorganisation.	
<b>IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050</b>	
This is considered for each decision made.	
<b>OTHER RELEVANT IMPLICATIONS</b>	
<b>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</b>	
<b>Crime and Disorder</b>	Not applicable
<b>Health Inequalities</b>	Not applicable
<b>Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)</b>	Not applicable
<b>Area or Ward affected</b>	No Wards would be directly impacted by this decision.
<b>ANY OTHER RELEVANT INFORMATION</b>	
None	

### **PART 3 – SUPPORTING INFORMATION**

<b>BACKGROUND</b>
<p>It was reported to the Standards Committee in February 2025 (minute no. 36) that the Standards Committee framework was responsible for the function of Standards Hearings, be it whether held by the Standards Committee for District Councillor complaints or a Sub-Committee for Town and Parish Councillor complaints.</p> <p>Members heard that matters reaching the need to invoke the Standards Hearing Procedure arose from complaints received under the Council's Members' Code of Conduct complaints procedure and followed a finding that evidence of a breach of the Members' Code of Conduct existed.</p> <p>The Committee was reminded that in April 2024 the Committee had considered a proposed updated Hearing Procedure that reflected best practice and case law, and which would supplement the Council's Complaints Procedure for dealing with allegations that a Member had breached the Code of Conduct.</p>

Full Council had previously approved the Standards Framework with effect from November 2013, which had included a Complaints Procedure.

The Complaints Procedure referred to the hearing in paragraph 7.1.2 and that it would follow the relevant procedures setting out how the hearing would be conducted. The purpose of the document was to ensure that all parties understood the process which would be followed at the hearing and to assist the Chairman to conduct a fair and proper hearing. When a hearing was convened, a copy of the procedures would be set out with the Report. Members were told that at its April 2024 meeting, the Committee had been also informed that the Hearing Procedure had been approved by the Standards Committee in March 2014. In consideration of the length of time since its adoption and with a Hearing due to be held in May 2024, it was felt important by the Monitoring Officer to ensure that the Council's procedures reflected best practice and were up to date. The Standards Committee had subsequently approved the amended Hearing Procedure for immediate adoption for both the Standards Committee and the Town and Parish Councils' Sub-Committee.

Officers also told Members that the opportunity for a further review of the Standards Hearing Procedure came after a Standards Hearing was conducted in May 2024 where the procedure was utilised and had been put through a 'stress test', having been infrequently used as the necessity had not arisen. The Hearing Procedure had not failed and was robust in its application, however there were some operational matters prior to the Hearing which would be addressed in the process, once a matter was referred for a hearing by the Monitoring Officer.

Subsequently, informal discussion sessions had taken place with Members of the Standards Committee and Independent Persons, with their views and subsequent amendments reflected within the Officer report and within the Standards Hearing Procedure as appropriate; whilst still reflecting the Standards Framework and Terms of Reference of the Standards Committee.

Finally, Members heard that once the proposals had been considered by the Standards Committee through a formal decision, further work could be undertaken on the documentation for approval.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

Minute no. 79 Full Council 26 November 2013 RESOLVED that following the meeting of the Conduct Committee held on 19 November 2013 during which Members had made a number of comments on the proposed new standards arrangements:

- a) The proposed new Standards Framework, as reported, be approved and that it replaces the Conduct arrangements which were agreed by the Council in May 2012;
- m) The Complaints Procedure.....be approved.

Minute no. 36 Standards Committee February 2025:

RESOLVED that the Standards Committee:-

- a) notes the contents of the Officer report and endorses the proposals as set out therein;

b) requests that Officers further review the Council's Complaints Procedure, proposes amendments as necessary and produces a flowchart detailing the process following an investigation being concluded to referral for a hearing, where evidence of a breach has been found; and

c) requests that Officers then present a revised Council's Complaints Procedure, Standards Hearing Procedure and flowchart to a future meeting of the Committee.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Tendring District Council Members' Code of Conduct – Part 6 of the Council's Constitution

#### **APPENDICES**

**Appendix A** - Tendring District Council Complaints Procedure – proposed amendments

**Appendix B** – Flowchart - Summary of process following investigation and referral to the Standards Committee to conduct a hearing, to be inserted as Annex F within the Complaints Procedure.

#### **REPORT CONTACT OFFICER(S)**

<b>Name</b>	<b>Lisa Hastings</b>
<b>Job Title</b>	Corporate Director Law and Governance
<b>Email/Telephone</b>	lhastings@tendringdc.gov.uk
<b>Name</b>	<b>Karen Hayes</b>
<b>Job Title</b>	Corporate Governance, Performance and Procurement Manager
<b>Email/Telephone</b>	khayes@tendringdc.gov.uk