

Council Report  
Ward(s) affected: All  
Report of the Council Solicitor and Monitoring Officer  
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## **Review of Arrangements for Dealing with Allegations of Misconduct by Councillors and Co-opted Members**

### **Executive Summary**

This report advises the Council of the outcome of a review of the Arrangements for Dealing with Allegations of Misconduct by Councillors and Co-Opted Members ("Arrangements") by the Council Solicitor and Monitoring Officer.

The review has focused on correcting inconsistencies, contradictions, and vague drafting in the predecessor document, and on refining processes which were found to cause uncertainty and delay. The review has also rationalised and restated the sanctions available to the Hearings Sub-Committee.

This report and the draft revised Arrangements were considered by the Corporate Governance and Standards Committee at its meeting on 14 June 2018. Subject to a number of comments, the Committee commended the revised Arrangements for adoption by the Council.

### **Recommendation to Council**

That the revised Arrangements for Dealing with Allegations of Misconduct by Councillors and Co-Opted Members, as set out in Appendix 1 to this report, be adopted.

### Reason for Recommendation:

To promote effective and clear arrangements for dealing with allegations of misconduct, and a clearly stated suite of sanctions.

### **1. Purpose of Report**

- 1.1 To advise the Council of the outcome of the review of the Arrangements conducted by the Council Solicitor and Monitoring Officer, in conjunction with

the Lead Councillor for Infrastructure and Governance, and the outgoing Chairman of the Corporate Governance and Standards Committee.

## **2. Background**

2.1 Among the duties of the Monitoring Officer is that of keeping the Constitution under review. Concerns were raised via the Deputy Monitoring Officer, and the Chairman of Corporate Governance and Standards Committee that:

- a) The Arrangements were replete with repetition, contradiction and vague drafting.
- b) The role of the Independent Person at the Hearings Sub-Committee was difficult to fulfil given the procedures described in the Arrangements (in particular, the Independent Person being required to give an immediate response, and in public, to the matters presented at the hearing made the role particularly challenging).
- c) Full Council was empowered to make final decisions on sanctions and that this inevitably led to a partial re-hearing of the complaint in a forum which lacked proper management of evidence and procedure.
- d) The description of the sanctions was unclear and, where a Subject-Member was the subject of a sanction which he or she declined to accept, there was no redress or opportunity for the Hearings Sub-Committee to consider an alternative sanction.

## **3. Amendments**

3.1 As textual and formatting amendments are too numerous to specify, the Committee is invited to review the document afresh, to note in particular the sanctions at paragraph 28 of Appendix 3 of the revised Arrangements, and to note that:

- 3.1.1 It is made clear that the Independent Person's deliberations can take place in private session;
- 3.1.2 The Hearings Sub-Committee is empowered to make a final decision on any sanction or sanctions to be applied; and,
- 3.1.3 Under the current law, there are no powers to apply sanctions to suspend or remove members, or prevent them from carrying out the role of councillor.

## **4. Consultations**

4.1 The Lead Councillor for Infrastructure and Governance and the Chairman of the Corporate Governance and Standards Committee, have been consulted, along with the officers and the Corporate Management Team, with comments and suggested revisions being incorporated.

4.2 This report and the draft revised Arrangements were considered by the Corporate Governance and Standards Committee at its meeting on 14 June 2018. The Committee made a number of suggestions to clarify the text in respect of dealing with complainants with difficulty in making a written

complaint, anonymous complaints, and complaints Identifying possible criminality. The Committee also made the following additional comments:

- include reference to a protocol (to be finalised) for reference of complaints alleging criminal conduct (or breach of other regulation) to the Police (or other regulatory body or agency).
- Paragraph 37 (Procedure and powers of the Corporate Governance and Standards Committee and Hearings Sub-Committee) to be amended to include a requirement for the Monitoring Officer:
  - (a) to consult with the Chairman of the Corporate Governance and Standards Committee; and
  - (b) to have regard to the fundamental principles of natural justice when contemplating any variation to the procedure.
- The Monitoring Officer to meet with the three parish representatives and the independent member on this Committee to go through the proposed revised Arrangements to identify any changes that affect parish councillors.
- Following adoption of the revised Arrangements by the Council, the Monitoring Officer to communicate the changes to all parish councils, particularly in respect of their implications for parish councillors.

4.3 Subject to these comments and suggestions, the Committee commended the revised Arrangements for adoption by the Council. The revised Arrangements attached as Appendix 1 to this report incorporate these comments and suggestions.

## **5. Legal implications**

5.1 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a councillor or co-opted member of the Council has failed to comply with the relevant code of conduct can be made, investigated, and decisions can be made on such allegations.

5.2 The arrangements for dealing with allegations of misconduct by councillors and co-opted members apply when a complaint is received that a Member of the Council or a Parish Council has or may have failed to comply with the Code of Conduct for Members.

5.3 The Localism Act 2011 strictly limits the range of sanctions which may be applied to a member who is found to have failed to comply with the code of conduct

## **6. Financial implications**

6.1 It is not anticipated that the adoption of revised Arrangements should carry any financial implications, aside from a beneficial effect resulting from a more efficient process.

## **7. Human Resource implications**

- 7.1 There are no significant human resource implications arising from this proposal.

## **8. Risk Management Implications**

- 8.1 There are no significant risk management implications arising from this report.

## **9. Summary of Options**

- 9.1 Council could decide not to adopt these revised Arrangements; however, the current Arrangements are not considered to be effective, and cause inefficiency through uncertain drafting and unnecessarily protracted process.

## **10. Conclusion**

- 10.1 The revised Arrangements provide a clear procedural framework for the review, investigation, and hearing of allegations of misconduct, together with a clear statement of the sanctions available under the current law.

## **11. Background Papers**

Current Arrangements for Dealing with Allegations of Misconduct by Councillors and Co-Opted Members (Part 5 of the Council's Constitution)

## **12. Appendices**

Appendix 1: Draft Revised Arrangements for Dealing with Allegations of Misconduct by Councillors and Co-Opted Members