



REPORT of MONITORING OFFICER

to
JOINT STANDARDS COMMITTEE
23 FEBRUARY 2017

CONSTITUTIONAL AND OPERATING ARRANGEMENTS FOR THE JOINT STANDARDS COMMITTEE

1. PURPOSE OF THE REPORT

- 1.1 To consider, with a view to recommending to the Council, possible revisions to the constitutional and operational arrangements of the Joint Standards Committee.

2. RECOMMENDATION

To the Council:

That the revisions to the constitutional and operating arrangements of the Joint Standards Committee as outlined in this report and shown in **APPENDICES 1 and 2** be adopted as part of the Council's constitutional documentation, and that as a consequence Council Procedure Rule 20 be amended to also exclude the Joint Standards Committee when conducting its business in private session.

3. SUMMARY OF KEY ISSUES

- 3.1 Following discussion at recent meetings and a training/briefing session for Members of the Committee, a number of potential revisions to the constitutional and operating arrangements for the Committee were identified. Attached to this report at **APPENDIX 1** is an extract from the Council's constitutional documentation including Stage I of the Conduct Complaints Process flowchart showing the proposed tracked changes with the main changes of substance being highlighted yellow. **APPENDIX 2** shows some proposed minor revisions to Stage II of the Conduct Complaints Process flowchart.
- 3.2 In summary, the changes of substance are as follows:
- Clarification of membership of the Committee and the involvement of the Independent Person.
 - Introduction of a specific term of office for the Local Council representatives serving on the Committee.
 - Further change to the provision around arrangements for the election of Chairman and Vice-Chairman of the Committee to remove the requirement that they be District Councillors.

- Clarification of the quorum for meetings of the Committee to require three voting Members.
- Inclusion within the Complaints Process Stage I flowchart of:
 - a cross-reference to the Member / Officer Relations Protocol being pursued first before the making of a formal complaint.
 - a 30-day period within which the initial information gathering and assessment work by the Monitoring Officer in consultation with the Independent Person will be normally be completed.
 - the ability for the Monitoring Officer with the agreement of the Independent Person to move to investigation where the circumstances so require.
- Inclusion within the Complaints Process Stage II flowchart of emphasis to require prompt notification of decisions taken by the Committee and also the additional publication of decision notices on the Council's website for transparency.

3.3 It is worth noting that when the Conduct Complaints process was last reviewed 4 July 2013 it was agreed that the process as set below be agreed and a deadline of 25 days for completion of the process be added.

- 1 Complaint received and acknowledged (within five working days) by the Monitoring Officer.
- 2 Councillor informed by the Monitoring Officer and response in writing sought (within 15 working days).
- 3 If necessary, further information / clarification sought from complainant by Monitoring Officer (within same period).
- 4 Independent Person notified and views sought.
- 5 The Monitoring Officer with the Independent Person considered and decides on:
 - No breach of the code of conduct and therefore no further action required.
 - Investigation by Monitoring Officer or other action.
 - Informal resolution including reference to Group Leader.
 - Reference to the Police.
- 6 Decision notice with reasons agreed.
- 7 Decision notice sent to complainant and subject Councillor.

3.4 It is clear from 5 above that the Monitoring Officer in consultation with the Independent Person would have the ability to move a complaint to investigation. The obvious circumstances would be where there was clear evidence of a breach of the Code of Conduct or where the ability of the Monitoring Officer to carry out an initial assessment was being frustrated in some way. The ability to move directly to investigation avoids delay in reporting a position to the Committee and in the longer run provides the Committee with more information on which to decide a course of

action at any resulting hearing. The Conduct Complaints Process flowchart now reflects this.

- 3.5 Prior to the last special meeting of the Committee on 13 January 2017 consideration was given to the issue of whether or not the Council's current Constitution had a bearing on the ability of a Member who was not a member of the Committee to attend meetings of this Committee. The Constitution is silent on this specific issue save for what is contained in Council Procedure Rule 20 which enables a non-member of a Committee to attend in order to speak subject to prior notice to and the agreement of the Chairman. It is then expressly stated that this provision shall not apply to meetings of the Investigating and Disciplinary Committee.
- 3.6 There are parallels to be drawn between the workings of the Investigating and Disciplinary Committee and the Joint Standards Committee, and the former has within its Operating Protocol provision to regulate proceedings.
- 3.7 It is considered that a similar provision should be included within the operating arrangements for the Joint Standards Committee. The basis for this is that when a conduct complaint matter is referred to the Committee for initial assessment as to a way forward, the complaint at that stage is unproven and could be unfounded. It is therefore vital that the interests of the parties, namely the complainant and the Councillor complained of, be protected throughout the process, hence the presentation of reports for consideration in private session. The protection should equally be maintained to include any subsequent consideration of an investigation report brought back to the Committee for consideration.
- 3.8 To protect confidentiality, the circulation of reports to be dealt with in private session must be confined to members of the Committee, Officers advising the Committee and the Independent Person. There is no foreseeable reason for any other Member to attend the meeting with a view to speaking or otherwise on a 'need to know' basis to enable them to fulfil their role as a Councillor.
- 3.9 In view of the role of the Independent Person in relation to conduct complaints, it is clearly appropriate that as an advisor to the Committee it is only right that they too should attend meetings of the Committee but it is felt that they should also be given the opportunity to advise the Committee of their views arising from involvement in a particular complaint through Stage I to further facilitate compliance with section 28(7) of the Localism Act 2011.
- 3.10 If the specific revision as outlined in paragraphs 3.5 to 3.8 above is agreed, then it is recommended that Council Procedure Rule 20 is also amended to exclude the Joint Standards Committee when dealing with private session business.

4. IMPACT ON CORPORATE GOALS

- 4.1 The review and updating of the corporate governance arrangements of the Council underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to high level outcomes associated with the corporate goal of delivering good quality, cost effective and valued services in a transparent way.

5. IMPLICATIONS

- (i) **Impact on Customers** – It is right and proper that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council's procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – None identified.
- (v) **Impact on Resources (human)** – None identified.
- (vi) **Impact on the Environment** – None identified.

Background Papers: None.

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