

Bolsover District Council

Meeting of the Standards Committee on Monday 13th November 2023

Councillor Complaints Procedure

Report of the Director of Corporate and Legal Services & Monitoring Officer

Classification	This report is public
Report By	Jim Fieldsend Director of Corporate and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To review the Councillor Complaints Procedure.

REPORT DETAILS

1. Background

1.1 Under Section 28(6) and (7) of the Localism Act 2011 the Council is required to have in place arrangements under which allegations of code of conduct breaches against both District and Parish Councillors are investigated. Such arrangements are contained within the Councillor Complaint Procedure set out at Appendix 1.

2. Details of Proposal or Information

2.1 There are a number of proposed minor changes set out as tracked changes throughout the document.

2.2 In addition at paragraph 7.1 there are some more substantive changes. Under the existing procedure once a complaint has been investigated a complaint can be dealt informally or by way of a local hearing. Before determining that a formal hearing is not required the Monitoring Officer is essentially required to seek approval from the complainant. This means that where the Monitoring Officer does not believe that a formal hearing is appropriate a complainant can still force a hearing to take place. This takes away the discretion of the Monitoring Officer and puts disproportionate control in the hands of the complainant.

2.3 The proposed changes addresses this imbalance and gives the Monitoring Officer the discretion to refer a complaint to a formal hearing. This is in line with guidance issued by the Local Government Association.

3. Reasons for Recommendation

- 3.1 To make it clear whose decision it is to refer a code of conduct complaint to a formal hearing.

4 Alternative Options and Reasons for Rejection

- 4.1 Not to amend the Councillor Complaints Procedure. This could result in a hearing taking place when it would be disproportionate to do so.

RECOMMENDATION(S) that;

The Councillor Complaints Procedure is amended as set out in the report.

IMPLICATIONS:

Finance and Risk: Yes No

Details:

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

Section 28 of the Localism Act 2011 requires the Council to have arrangements in place to deal with Code of Conduct Complaints

On behalf of the Solicitor to the Council

Environment: Yes No

Details: There are no environment implications arising from the recommendations in this report.

Staffing: Yes No

Details:

None arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	No

<p>District Wards Significantly Affected</p>	None
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/></p>	Details:

<p>Links to Council Ambition: Customers, Economy and Environment.</p>
<p>Demonstrating good governance</p>

DOCUMENT INFORMATION	
Appendix No	Title
1	Councillor Complaints Procedure

<p>Background Papers</p>
<p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i></p>
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