

Bolsover District Council

Standards Committee on 4th November 2024

Councillor Complaints Procedure

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

Classification	This report is public
Report By	Jim Fieldsend Director of Governance and Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To recommend a change to the Councillor Complaint 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

2. Details of Proposal or Information

2.1 At the Standards Committee meeting on 13th November 2023 members agreed to specific changes to the Councillor Complaint Procedure to enable the Monitoring Officer to determine whether a formal hearing should be held where an investigation has found that a Member was in breach of the code of conduct or whether it could be dealt by other suitable methods, known as a Local Resolution. The requirements of the code at the time required the approval of the complainant. This took away the discretion of the Monitoring Officer and put disproportionate control in the hands of the complainant. The proposed change addressed this imbalance and gave the Monitoring Officer the discretion to refer a complaint for a formal hearing. This change was in line with guidance issued by the Local Government Association.

2.2 The changes agreed by Standard Committee have been implemented however further changes are required. The Procedure states at paragraph 7.2 –

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology,

then the Monitoring Officer will report the Investigating Officer's report to the Sub-Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

- 2.3 The wording in bold enables a complainant to reject a proposed local resolution. This is at odds with the previous decision of the Standards Committee and existing guidance. It is proposed that this wording is removed from the Councillor Complaints Procedure.

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:

None arising from this report.

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

None arising from this report.

On behalf of the Solicitor to the Council

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

<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>