

**Bolsover District Council**

**Standards Committee**

**28<sup>th</sup> September 2020**

**Publishing of Complaints Against Members**

**Report of the Head of Corporate Governance and Monitoring Officer**

This report is public

**Purpose of the Report**

- To present to Members of the Committee the publication document produced by Cornwall Council at the end of the process on a member complaint.
- To outline arguments for and against publication of outcomes of member complaints.
- To present details of possible publication models.

**1 Report Details**

- 1.1 At the last meeting members discussed whether or not the outcomes of Member complaints should be published. Currently they are not. Members were made aware of Cornwall Council's publication of the outcomes of members' complaints. Two copies are attached to this report. These are lengthy documents with the full reasoning for the decision. I would advise against giving so much detail in a public notice.
- 1.2 There are arguments for and against publication.
- 1.3 In favour of publication:
- Openness and transparency
  - It will show the public that Members are mostly compliant with their codes of conduct and that there is no great problem.
  - It will show the public that the breaches alleged often relate to the way members have treated others and many times in the members' private life not their public one.
  - This will help members of the public understand that currently the Members' Code of Conduct does not relate to a Member's private life.
  - It would tell the world of a councillor's innocence.
- 1.4 Against publication:
- It prolongs the publicity unfairly when the Member is found to be not in breach of the code of conduct.

- Vexatious, scurrilous and capricious accusations from members of the public will be published giving the complainants an extra audience even where the complaint was not upheld. It will also give self-justification to such complainants.
- It may encourage the making of such complaints.
- In the employees situation such things are dealt with in private. Should we treat innocence members any differently?
- There is no control over the notice once published. It is on the website indefinitely and can be copied and manipulated far into the future.
- It will encourage the use of complaints to get at councillors when in reality it is either a political difference or a personal private disagreement.
- This would give the opportunity for anyone with a grudge or political agenda to make multiple complaints hoping that enough mud is thrown some will stick.
- It would be particularly hard on Parish Councillors who are volunteers receiving no allowances.

1.5 There is no requirement to publish. It would be entirely voluntary. As such it is my view that there may be Data Protection requirements to adhere to which I will ask the Data Protection Officer to comment on if members are minded to publish. If however the publications were depersonalised by the removal of names, this would not be a problem.

1.6 in terms of Members' views generally on the subject I have received some feedback from members who have heard that this proposal is being considered. It is my view that the Committee should ask all District Councillors and Parish Councils for their views before taking a decision on whether to publicise and if so at what level. This would assist with it being known that this is what happens if Members do decide to publish.

1.7 If the consultation response is in favour of publication, a form of notice will be developed,

1.8 The options would appear to be:

- Not to publicise, as is the case now.
- Publicise individual cases as and when they occur.
- Publicise individual cases as and when they occur but redact names of complainants and councillors and the relevant Council.
- Publicise cases from a specific period of time (say every 3 months) with full details.
- Publicise cases from a specific period of time (say every 3 months) with full names redacted.
- Publish a table once a year with full details.
- Publish a table once a year with full details redacted.
- Publish as options above but only those cases where fault is found.

## **2 Conclusions and Reasons for Recommendation**

2.1 Members wish to consider publishing the results of Member complaints. As the process affects Members of Parish Councils too, the Parish Councils should be

asked for their opinion. There would need to be sufficient time for the Parish Councils to debate this in their meetings if they wish to do so.

- 2.2 Once the consultation feedback is received, Standards Committee should consider the outcome and take a decision.

### **3 Consultation and Equality Impact**

- 3.1 This report proposes a consultation exercise with Members of Parish Councils who will also be affected by any changes to the existing regime.
- 3.2 An Equality Impact Assessment can be carried out if Members decide at a future meeting to proceed.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 The alternatives are contained in the report.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 De minimis

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Data Protection Officer would be consulted to ensure compliance in any future scheme to publish.

#### **5.3 Human Resources Implications**

- 5.3.1 None

### **6 Recommendations** that

- 6.1 The Monitoring Officer write out to all District Councillors and Parish Councils asking for their views on publication and giving the details of the options in paragraph 1.8 above.
- 6.2 Parish Councils are asked in addition to seek the views of their individual Councillors and ask that they send responses to the Monitoring Officer.
- 6.3 Following the consultation, a report is presented to Standards Committee on the outcome of consultation.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  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><i>BDC: Revenue - £75,000 <input type="checkbox"/></i>  <i>Capital - £150,000 <input type="checkbox"/></i>  <i>NEDDC: Revenue - £100,000 <input type="checkbox"/></i>  <i>Capital - £250,000 <input type="checkbox"/></i></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	N/A
<p><b>District Wards Affected</b></p>	All indirectly
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

## 8 Document Information

Appendix No	Title
<p><b>Background Papers</b> (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 Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
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