

Arrangements for handling complaints on Councillor conduct and Independent Person Protocol

Standards Committee Monday, 15 March 2021

Report of: Lidia Harrison, Head of Legal Services and Monitoring Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

The Committee is asked to consider amendments to the current arrangements for dealing with standards complaints, informed by practice in other councils and recommendations by the Committee for Standards in Public Life. The revisions are designed to clarify the process and increase its transparency and effectiveness.

The Committee is also asked to recommend a new Protocol for the Independent Person to Council for adoption within the Constitution, with the aim of increasing understanding of the role and clarifying the process for recruitment.

This report supports the Council's priority of: Building a better Council

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Recommendation to Committee:

- A. That the Committee approve the revised arrangements for dealing with standards complaints (Appendix A).
 - B. That it be recommended to Council that the Council adopt a Protocol for the Independent Person (Appendix B) as part of the Constitution.
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Reason for recommendation:

At the same time as the Member Code of Conduct is reviewed, it is timely to review arrangements for dealing with complaints under that Code.

This also provides an opportunity to address relevant recommendations by the Committee for Standards in Public Life (the Annual Governance Statement action plan includes a commitment to address these recommendations).

Introduction and background

- 1 The Council's arrangements for handling complaints on Councillor conduct under the Localism Act 2011 have been in place for a number of years. They are published on the Council's website next to the Member Code of Conduct, as part of guidance for members of the public on how to complain about a Councillor.
- 2 The Council's arrangements have been reviewed in the context of good practice in other councils, and in light of recommendations from the Committee for Standards in Public Life¹ that councils should publish:
 - (i) a clear and straightforward public interest test against which allegations are filtered;
 - (ii) estimated timescales for investigations and outcomes.
- 3 Some other councils have a Protocol for the Independent Person. While Tandridge District Council has not previously had such a Protocol, it is suggested that such a Protocol would assist in clarifying the role of the Independent Person and arrangements for their appointment.

Proposal

- 4 Draft revisions to the Arrangements for dealing with standards complaints under the Localism Act 2011 appear at Appendix A. Proposed additional text appears in italics and proposed deletions appear as strikethrough.
- 5 The revised draft contains the following key changes:
 - Clarification of the involvement of the Independent Person throughout the process;
 - Addition of estimated timescales for completion of each stage (subject to provision of information by third parties);
 - Addition of criteria to be used when assessing whether or not to refer a complaint to investigation;
 - Additional detail about the approach to be taken by the Hearings Panel;
 - A new process for the appointment of members to the Hearings Panel, which aims to ensure that all Panels are constituted of members who are disinterested in the complaint and have been appropriately briefed;
 - Clarification on the nature of complaints which may be referred to the Hearings Panel.

¹ <https://www.gov.uk/government/publications/local-government-ethical-standards-report>

- 6 A draft Protocol for the Independent Person appears at Appendix B.
- 7 There is no budgetary impact arising from these changes.

Other options considered

- 8 Officers have reviewed practice in a range of other councils when preparing revisions to these Arrangements: those proposed are considered to be appropriate for Tandridge Council and reflect current good practice.
- 9 The Committee could decide not to revise the Arrangements: this would mean that the opportunity to address the recommendations of the Committee for Standards in Public Life relating to timescales and criteria for assessment would be missed.

Consultation

- 10 The Independent Person has been consulted on both the revised Arrangements and the draft Protocol for the Independent Person.

Key implications

Comments of the Chief Finance Officer

There are no financial implications arising from this report.

Comments of the Head of Legal Services

There are no specific legal implications arising from this report, as there is no statutory obligation on the Council to have either Protocol, although it is recommended as it assists both Officers and Members in understanding the various stages of the standards process and the purpose of the role of the Independent Persons.

Equality

The Committee is, elsewhere on its agenda, considering proposed changes to the Member Code of Conduct, which include strengthening the focus on equalities and diversity and bullying and harassment in the Code.

These arrangements are designed to ensure that any complaints about potential breaches of the Code are handled efficiently and fairly. The changes aim to increase clarity about the process and its timescales, to increase transparency about decision-making and to ensure that Hearings Panels are appropriately balanced.

The proposals are therefore designed to increase the Council's effectiveness in handling Councillor conduct complaints (including complaints related to equality and diversity) and transparency associated with the process.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix 'A' - Arrangements for dealing with standards complaints draft revisions

Appendix 'B' - Draft Protocol for the Independent Person

Background papers

None.

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