



Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Ethical Governance & Personnel Committee 24 March 2021
Council 18 May 2021

Wards affected: All wards

Process for dealing with Code of Conduct complaints

Report of the Monitoring Officer

1. Purpose of report

1.1 To seek members' views on the draft complaints process which is under review on the request of the committee.

2. Recommendation

2.1 The proposed process be supported.

3. Background to the report

3.1 Section 28(6) of the Localism Act 2011 states that the authority must have arrangements in place to investigate and make decisions on allegations that a member has breached the Code of Conduct.

3.2 The current process for dealing with complaints about councillor conduct was adopted in July 2012 and last reviewed in March 2015.

3.3 The process requires that most complaints are presented to the Ethical Governance & Personnel Committee for determination at every stage. This results in committee time being taken up by complaints that could be resolved by the Monitoring Officer under delegated authority.

3.4 This proposed new process will enable the Monitoring Officer to consider any complaints they, in consultation with the Independent Person, feel require no further action or could be resolved by way of formal apology and/or requiring

the subject member to undertake training. These will be those complaints that are frivolous or not an appropriate use of the committee's time.

- 3.5 The section on 'Appeals' has also been amended to make provision for the complainant and subject member to complain to the Local Government and Social Care Ombudsman if they are dissatisfied with the way their complaint has been handled, as is the appropriate course of action for such matters.
- 3.6 In addition to the amendments in 3.4 and 3.5 above, the document has been laid out more clearly.
- 3.7 A flowchart is also attached for operational use in considering complaints.

4. Exemptions in accordance with the Access to Information procedure rules

- 4.1 Report to be taken in open session.

5. Financial implications (IB)

- 5.1 None.

6. Legal implications (MR)

- 6.1 Section 28(6) Localism Act 2011 stipulates that the Council must have in place:
 - a) Arrangements under which allegations can be investigated; and
 - b) Arrangements under which decisions on allegations can be made.
- 6.2 Section 28 (7) of that Act provides that such arrangements must include provision for the appointment of at least one independent person
 - a) whose views are to be sought and taken into account before it makes a decision in an allegation that it has decided to investigate, and
 - b) whose views may be sought
 - i) by the Council in relation to an allegation in circumstances not within paragraph 7 above;
 - ii) by a member of the Council if that person's behaviour is the subject of an allegation; and
 - iii) by a member of the Council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.
- 6.3 Section 101 Local Government Act 1972 empowers the Council to arrange for the discharge of its functions by an officer.

6.4 There doesn't seem to be anything in the legislation which prohibits the delegation proposed in this report.

7. Corporate Plan implications

7.1 This report supports all aims and objectives as it ensures good governance through high standards of conduct.

8. Consultation

8.1 The purpose of this report is to consult the Ethical Governance & Personnel Committee.

9. Risk implications

9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) risks		
Risk description	Mitigating actions	Owner
None		

10. Knowing your community – equality and rural implications

10.1 This report does not impact any groups or communities as it is a corporate matter which support good conduct and governance across the authority.

11. Climate implications

11.1 Whilst this report would not have direct impacts on the climate, if the new process was adopted it would have an indirect benefit in reducing the frequency of meetings and therefore the impact of travel associated with them, and fewer and/or shorter agendas, thereby also reducing paper usage.

12. Corporate implications

12.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
 - Environmental implications
 - ICT implications
 - Asset management implications
 - Procurement implications
 - Human resources implications
 - Planning implications
 - Data protection implications
 - Voluntary sector
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Background papers: Code of Conduct for members

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