

**ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE/
STANDARDS COMPLAINTS
REPORT OF: MONITORING OFFICER**



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: ALL WARDS

1. **PURPOSE OF REPORT**

- 1.1 This report follows decisions made at Council in 2012, comments made at meetings of the Ethical Governance and Personnel Committee and the resignation of four members of the Committee on 18 November 2013.

The purpose of the report is to explain what this Council needs to have in place to comply with legislation and seeks to obtain Members support for a way forward.

2. **RECOMMENDATION**

- 2.1 That Council agree the approach to dealing with Complaints about Borough and Parish Councillors received under Chapter 7 of the Localism Act 2011, by agreeing one of the four alternative models described in paragraphs 3.7 - 3.10 or suggesting and agreeing an alternative model.

3. **BACKGROUND TO THE REPORT**

- 3.1 Chapter 7 of the Localism Act 2011 sets out the provisions in respect of the conduct of members under the new legislation. There is no longer a statutory requirement to have a Standards Committee, however each authority has to have in place arrangements dealing with complaints and standards issues.
- 3.2 The determination of complaints is a Council function, so the Council must either deal with it itself, appoint a committee (politically balanced), appoint a committee (and waive political balance) or delegate the function to an officer.
- 3.3 The Borough Council has responsibility to deal with complaints about elected and co-opted Members of Parish and Town Council's in the Borough's area. As such the Council can choose to co-opt non voting Parish Members on to any Committee delegated to carry out this function.
- 3.4 In 2012, this Council determined that a Politically balanced committee be set up to determine complaints and that it would be combined with the Personnel Committee, as such the Ethical Governance and Personnel Committee was established. The Committee has a membership of nine councillors and based on current proportionality five Liberal Democrat and four Conservative councillor places.
- 3.5 Following a number of debates during the consideration of complaints, concerning partiality due to the subject matter of the complaints often being about the actions of councillors of different Political Groups, the Conservative members of the Committee took the decision to resign from this Committee. This means that there are currently four vacancies.
- 3.6 This report is required as a decision is required as to the appropriate way forward as our statutory requirements state that we **MUST** have a mechanism for dealing with complaints. The following paragraphs indicate options open to the Council, or of course Members may like to suggest an alternative

3.7 OPTION 1 – Appointment to the four vacancies

This option is in essence maintaining the current position. This would require nomination of four Conservative councillors to the vacancies. In order to address concerns regarding partiality it would then require all members of the Committee to acknowledge that their duty on that committee is to consider all complaints objectively and without bias and to remain impartial.

3.8 OPTION 2 – That political balance be waived for Ethical Governance and Personnel Committee

This requires unanimous support of those present. This would allow for there to be an equal number of members of the Committee. For example four Conservative and four Liberal Democrat councillors. In this scenario (assuming there was a full complement) if there was a tie of votes, the Chairman would have the casting vote. Alternatively a ninth place could be given to the Labour member. The number of members can be determined by the Council.

3.9 OPTION 3 – Council considers all complaints

The Localism Act 2012, states that consideration of complaints is a Council function, as such complaints can be brought to meetings of the Council for determination. If this is a preferred option then I would advise delegating further decision making to an officer to filter complaints further. In order to address concerns regarding partiality it would then require all members of the Council to acknowledge that their duty is to consider all complaints objectively and without bias and to remain impartial.

3.10 OPTION 4 – Delegation to an Officer

As a function of the Council, you are open to delegate the whole function of considering and determining complaints to an officer of the Council.

3.11 For Council's information, since June 2012, the Council has received 12 complaints about Borough and Parish Councillors. Two of those have been referred for investigation, one of those has been completed and is awaiting consideration by the Ethical Governance & Personnel Committee and the other is in the early stages. Two complaints have still to be considered. As such there is a need to put a mechanism in place quickly to deal with these matters as one meeting has already had to be cancelled due to the absence of a properly constituted committee.

4. FINANCIAL IMPLICATIONS AB

4.1 Will be met within existing resources

5. LEGAL IMPLICATIONS LH

5.1 Stated in the report, failing to have a mechanism in place to deal with complaints will be a breach of the legislative requirements and we will face challenge through the Courts.

6. CORPORATE PLAN IMPLICATIONS

6.1 Empowering Communities – this mechanism allows members of the public to raise concerns and complaints about elected local Councillors.

7. CONSULTATION

7.1 None, this is for consideration by the Council as it is a Council function

8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 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.
- 8.3 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
Failure to adopt a mechanism for the consideration of complaints leads to challenge	Agree an approach going forward	Council

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 All sectors of the Community are entitled to raise complaints about their local Councillors and Council is under a duty to have a mechanism in place to deal with them.

10. CORPORATE IMPLICATIONS

- 10.1 By submitting this report, the report author has taken the following into account:
- Community Safety implications
 - Environmental implications
 - ICT implications
 - Asset Management implications
 - Human Resources implications
 - Planning Implications
 - Voluntary Sector

Background papers: none

Contact Officer: Louisa Horton x5859
Executive Member: Councillor Bron Witherford