

STANDARDS COMMITTEE

9 FEBRUARY 2022

REVIEW OF PROCEDURES

Cabinet Member: Cabinet Member for Working Environment and Support Services
Responsible Officer: District Solicitor and Monitoring Officer
Reason for Report: To consider a review of the Council's Procedure Rules

RECOMMENDATION: That the Committee RESOLVES that:

- (1) A Task and Finish Group is established to undertake a review of the Council's Procedure Rules as outlined in Section 2 of this report; and
- (2) The Standards Complaint Criteria be amended as outlined in Section 3 of the report.

Financial Implications: None directly arising from this report

Legal Implications: None beyond those set out in this report

Risk Assessment: There are no risks directly arising from this report

Equality Impact Assessment: Not directly applicable

Relationship to Corporate Plan: No direct relationship

Impact on Climate Change: None

1.0 Background

- 1.1 Members will appreciate that the Standards Committee's terms of reference include responsibility for overseeing the Constitution. The latter document includes the Council's Procedure Rules, which should facilitate effective and efficient conduct of the Council's business in the public interest. Whilst it is understood changes have been made to the rules in recent times on an ad hoc basis (e.g. in response to Member Motions), such means of endeavouring to keep the rules fit for purpose, can result in inconsistencies with other parts of the Constitution. In the absence of a more wholesale review some rules appear to have been overlooked and thus not kept up to date with good working practices etc.
- 1.2 Over the last 3 months, the following areas have been identified by / and or raised with the Monitoring Officer as warranting deletion or amendment: the application of Public and Member Questions; Members' Business at full Council; Reporting of PDG and committee minutes to full Council (as opposed to simply recommendations); how Member and Public questions are used, applied and presented; rights of non-committee members to speak in committee; how Member Motions are used; the application of Chairs' discretion at odds with the rules; and Planning Committee procedures (e.g.

value of implications reports, public speaking and statutory processes overlap; potential conflict between ward member and committee planning interests; and the length of meetings).

2.0 **Task & Finish Group (Council Procedure Rules):** Recommendation (1) above

2.1 As the procedure rules (in contrast to the decision making structure) have not been reviewed for some time, it is proposed that the Committee sets up a small member task and finish group to consider the matter with the District Solicitor and Member Services Manager. It is suggested that the group is cross party, with no more than four members plus the Chair of Standards, with each Group Leader being invited to fill one of the remaining four places (or to appoint a representative). An informal group of the nature proposed should consider the issues already identified and any others it considers appropriate taking account of the views of other Members who can be consulted informally. The meetings may be held remotely or in person.

2.2 The group would not make any decisions. It would only make recommendations to the Committee in public, the latter of which would in turn put forward its final recommendations to full Council. Taking account of the current meeting calendar, in the absence of any additional Standards Committee meeting, it won't be possible for the Standards Committee to formally consider the Task & Finish Group's report until 8 June, any recommendations to full Council being presented at the Council on 6 July. If the Committee wishes to expedite the matter so that any new rules take effect by the start of the 2022/23 civic year, an additional Standards Committee meeting will need to be arranged for April 2022.

3.0 **Standards Investigation Procedure:** Recommendation (2) above

3.1 At its last meeting the Committee resolved to review the current standards investigation procedure, in particular the length and inconsistencies in the presentation of the legal and local assessment tests. In accordance with the current procedure, these two tests need to be met for a complaint to be referred for investigation. The tests' criteria is generally helpful in that such ensure that complaints comprise a prima facie case of a breach of the relevant code of conduct which is in the public interest to investigate.

3.2 The following paragraphs set out the two tests with some amendments to ensure that they are easier for the public to follow. The suggested changes to the current procedure are shown in italics and crossed through as appropriate in paragraph 3.3 below. The deletions seek to avoid duplication with other criteria and provide consistency in the drafting so it is clear that all the criteria need to be answered with a "yes" for the complaint to be referred for further action. As there is no material change to the criteria, the Committee may resolve these, the Monitoring Officer having delegated authority to make changes she considers minor subject to notification being given to all Members.

3.3 In assessing whether any Members' Code of Conduct complaint is referred for investigation or other action, complaints need to meet the following two tests:

Legal Jurisdiction Test:

- (a) ~~Did~~ The alleged conduct occurred *since before* the adoption of the *relevant* Code of Conduct?
- (b) ~~Was~~ The person complained of was a member of the *relevant* council at the time of the alleged conduct?
- (c) ~~Was the person complained of was acting in an official capacity at the time of the alleged conduct?~~
- (d) ~~Did~~ The alleged conduct occurred when the person complained of was acting (or giving the impression he was acting) as a member of ~~another authority the District Council or a parish / town council within the District ?~~
- (e) If the facts could be established as a matter of evidence, ~~could~~ the alleged conduct ~~is be~~ capable of *amounting to* a breach of the Code of Conduct?
- (f) The complaint is about *the councillor's conduct and not* dissatisfaction with the Council's decisions, policies and priorities etc.

Local Assessment Test:

- (a) *If* the complaint is a 'repeat complaint' or *anonymous*, ~~unless it is~~ supported by *materially* new or ~~further~~ *independent* evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) ~~the complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;~~
- (c) ~~There is no or~~ insufficient information/evidence to substantiate a *reasonable case for* the complaint *which* has been submitted by the Complainant *or on his behalf*;
- (d) The complaint is not malicious, *vexatious*, trivial, politically motivated or 'tit-for-tat';
- (e) ~~The Complainant is unreasonably persistent, malicious and/or vexatious;~~
- (f) The alleged misconduct happened within the last ~~more than~~ 3 months ~~ago~~;
- (g) The complaint is relatively ~~minor~~ *significant in that taking further action* would be proportionate to the impact and ~~dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;~~
- (h) The circumstances have *not materially* changed *since the incident so much that there would be little benefit arising from an investigation or other action;*
- (i) The complaint has *not previously* been the subject of an investigation or other *similar* action ~~so that and there is nothing more to be gained by further action being taken;~~
- (j) ~~The complaint is such that~~ It is unlikely that an investigation will be able to come to a firm conclusion on the matter e.g. where there is ~~no~~ firm evidence on the matter;
- (k) ~~the complaint is about a deceased person;~~
- (l) The complaint is about a person who is still ~~no longer~~ a council or co-opted member.

Contact for more Information:

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