

Procedure for Handling Standards Complaints

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Report to and date(s):	West Suffolk Standards Committee 22 January 2024
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Decisions Plan: n/a

Wards impacted: All (not directly)

Recommendation: It is recommended that:

- 1. The proposed amendments, as set out in Paragraphs 2.3, 2.5 and 2.9 of this report, be made to the West Suffolk Council Standards Procedures; and**
- 2. The proposed amendments as set out in Appendix C of this report, be made to the West Suffolk Council Standards Committee Procedure**

1. Context to this report

- 1.1 On 22 March 2022 Council adopted the Local Government Association Model Code of Conduct as its new Local Code of Conduct for Councillors.
- 1.2 Alongside the Model Code of Conduct, the Local Government Association (LGA) issued Guidance on Member Model Code of Conduct Complaints Handling to help councillors in response to requests they received as part of their consultation in 2020 on the Model Code of Conduct. This guidance is designed to assist Monitoring Officers and anyone nominated by a Monitoring Officer to carry out investigations on their behalf and to assist Councillors in understanding the process. Local authorities may have different practices and arrangements in place, however, the principles of fairness, proportionality, transparency and impartiality will still apply.
A copy of the Guidance is attached as Appendix A to this report.
- 1.3 Under Section 28 of the Localism Act 2011, local authorities (other than parish and town councils) must have in place 'arrangements' under which allegations that an elected or co-opted councillor of the authority or of a town or parish council within the principal authority's area has failed to comply with the authority's Code of Conduct can be considered and decisions made on such allegations. It is for the principal authority to decide the details of those arrangements, but they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that they have decided to investigate.
- 1.4 The LGA guidance is for guidance purposes only and where it differs from the authority's own arrangements under the Localism Act then the authority's arrangements should be followed.
- 1.5 Section 28 of the Localism Act 2011 provides that a relevant authority other than a parish council must have in place:
- (a) arrangements under which allegations can be investigated, and
 - (b) arrangements under which decisions on allegations can be made.
- 1.6 West Suffolk Council adopted the current Standards Procedure on 15 July 2019. The Monitoring Officer, having noted the LGA Guidance, considers that there is scope to amend the Standards Procedures and Standards Committee Procedures to ensure they continue to meet the principles of fairness, proportionality, transparency and impartiality.
A copy of the current Standards Procedure and Standards Committee Procedure is attached as Appendices B and C to this report.
A link is included under Section 8 below to the report, appendices and minutes of the West Suffolk Standards Committee meeting of 15 July 2019.

2. Proposals within this report

- 2.1 Currently the Standards Procedures, in Part 7, explains the role of the Independent Person and sets out the recommendations they may make to the Monitoring Officer. However, there is no provision for an informal resolution which, although referenced within the LGA guidance, is not included within the Standards Procedures in respect of informal resolution.
- 2.2 An informal resolution is considered a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals. Any matter dealt with by informal resolution at the initial assessment stage is making no finding of fact as there has been no formal consideration or investigation and the Monitoring Officer is required to balance the interest in resolving the matter quickly and satisfactorily against the interest in the complainant having their complaint upheld or the member's desire to clear their name.
- 2.3 **It is recommended that the Standards Procedure is amended at Part 7 to include scope for the Monitoring Officer to seek an informal resolution which accords with the Local Government Association Guidance on Member Model Code of Conduct Complaints Handling.**
- 2.4 The Monitoring Officer has also noted that there is no reference within the Standards Procedures for the handling of complaints made by members of the Council's staff. Whilst the process will essentially be the same, the Monitoring Officer considers it appropriate and proportionate to inform the Chief Executive when such a complaint is made which accords with his statutory role of Head of Paid Service. This would enable him to act on any matters arising from such complaint to ensure both the complainant and councillor are not put in any difficult position during and after the determination of the complaint.
- 2.5 The Monitoring Officer has further noted that where a matter relates to a difference in personalities or poor behaviour between group members or between members of two groups, then the Group Leaders will be informed and given an opportunity to seek to resolve the issues. However there is currently no scope within the Standards Procedures for relevant Group Leaders to be informed of the receipt and outcome of a complaint which involves one of their Group's members.
- 2.5 **It is recommended that the Standards Procedure is amended to include that the Head of Paid Service will be informed of any complaints made by a member of staff and the outcome of that complaint and the relevant Group Leader is informed of the receipt and outcome of a complaint made against a member of their group.**

- 2.6 The current Standards Procedures makes no specific reference to the publication of the outcome of a complaint where that complaint has been upheld although the Standards Committee Procedure does include, within the list of sanctions it may propose, the publishing of a press notice.
- 2.7 Members may be aware that the Committee on Standards in Public Life made several recommendations to Government in their report on Local Government Ethical Standards which included Best Practice recommendations which included a recommendation that Local authorities should be given the power to suspend councillors, without allowances, for up to six months. Government rejected this recommendation stating 'Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box Best practice recommendation 9 states 'Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker and any sanction applied.'
- 2.8 The Committee on Standards in Public Life have therefore included Best practice recommendation 9 within the Guidance on the Model Code of Conduct which states 'Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker and any sanction applied.' In the LGA Guidance on Member Model Code of Conduct Complaints Handling it is suggested that the Standards Committee/Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned, and anywhere else the panel considers appropriate. It further states that if the Standards Committee/Monitoring Officer finds that the subject member did not breach the Code of Conduct, the public summary must say this and give reasons for this finding. It is the Monitoring Officer's view that, unless such decisions are published, there is no scope for members of the public to make any determination on the behaviour of a candidate before electing to vote for them.
- 2.9 **It is recommended that the Standards Procedures are amended to include scope for the Monitoring Officer to publish decisions on the Council's website following the determination of a complaint either by local resolution or via a hearing of the Standards Committee that a councillor has breached the Code of Conduct.**

- 2.10 The LGA Guidance on Member Model Code of Conduct Complaints Handling makes reference to a hearing process once a formal investigation has concluded. There is no prescription in the legislation that says a matter has to go to a hearing or how a hearing may be conducted however, whatever approach taken must follow the rules of natural justice and comply with the obligations to ensure a fair hearing under Article 6 of the Human Rights Act. In line with the principle of proportionality the approach taken may depend upon the seriousness of the issue.
- 2.11 The Monitoring Officer is satisfied that the current Committee Procedure meets the principles of fairness, proportionality, transparency and impartiality and follows the rules of natural justice and obligations to ensure a fair hearing. However, the Monitoring Officer has suggested some slight amendments with a view to making the process clearer.
- 2.12 **It is recommended that the Committee Procedure is amended as set out in Appendix C to this report.**

3. Alternative options that have been considered

- 3.1 That no amendments are made to the current Standards Procedures and Committee Procedure.

4. Consultation and engagement undertaken

- 4.1 The views and input of the West Suffolk Standards Committee are sought on the proposals outlined in the report.

5. Risks associated with the proposals

- 5.1 None

6. Implications arising from the proposals

- 6.1 None

7. Appendices referenced in this report

- 7.1 Appendix A - Local Government Association (LGA) guidance on Member Model Code of Conduct Complaints Handling
Appendix B – Current West Suffolk Council Standards Procedure
Appendix C – Draft amended West Suffolk Council Standards Committee Procedure

8. Background documents associated with this report

8.1 [West Suffolk Standards Committee – 19 July 2019](#)