



Leicester
City Council

WARDS AFFECTED

All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Standards Committee
Full Council

20th June 2017
TBC

Standards 'Arrangements' - revisions

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 To seek the approval Full Council to the revised "Arrangements" for dealing with complaints against Members and co-opted Members under the Localism Act 2011, which are found in Part 5 of the Constitution
- 1.2 To seek approval to change the wording in the Standards Committee Terms of Reference (found in Part 3 of the Constitution) such that references to "Standards Advisory Board" or "Board" shall read "subcommittee"

2. SUMMARY

The Council adopted a new Code of Conduct (and associated 'Arrangements') on 1st July 2012 pursuant to changes in the law. These were reviewed by Full Council on 19th September 2013 and minor modifications were made. They were further reviewed and amended by Full Council on 14th November 2014. This report reflects upon the intervening years and seeks approval for further changes.

3. RECOMMENDATIONS (OR OPTIONS)

That the Standards Committee receives the report and comments upon the proposed changes

That Full Council accepts the changes to the Arrangements.

4. REPORT

4.1 The proposed amended Arrangements are attached as Appendix A.

There are two substantive proposed changes to the Arrangements:

- i) Section D4 (d) – adds a reason for rejection of a complaint where it discloses no breach or potential breach of the Code of Conduct. Previously such complaints had to be re-classified as “trivial”. Such a classification can be inappropriate, for example where someone makes a seemingly grave complaint but where it is plainly unsupported by any evidence or plainly contradicted by other evidence. In these circumstances it is more appropriate for the complaint to be rejected in the new terms set out.

- ii) Section D4 (h) – adds a power for the Monitoring Officer and Independent Person to conclude that a complaint needs to be progressed to Standards Advisory Board level without the need to commission an independent investigation. This scenario may arise where there is clear, objective evidence already available of the very incident which gave rise to an allegation and where therefore it is wholly unnecessary to incur the delay and expense of a formal investigation. Equally it could apply to a scenario where a non-trivial breach is alleged and the Subject Member admits the breach of the Code. In these cases the Monitoring Officer will collate those available materials, afford an opportunity to the Subject Member to comment, and pass the “pack” onto the Standards Advisory Board. They will decide whether (i) no further action is required or (ii) a hearing panel should be convened. It is noted that although a broad discretion already exists in the “Arrangements” to tailor procedure to suit the circumstances of a particular case, the current wording around “investigations” implies that all more serious allegations will be formally investigated. The new provision makes it clear that in appropriate cases the investigation can comprise the collation of existing materials together with any explanation offered by the subject Member. It is submitted that in those rare cases where it is appropriate to utilise this provision, it represents an entirely proportionate use of resources without compromising the fairness of the proceedings at all.

There are numerous minor changes to the text as follows:

- iii) Modifying the references to “Investigation” to align with the change cited at point ii) above

- iv) Separating-out the wording in relation to Hearing Panels to make it clearer that this is a separate stage of proceedings

- v) Clarifying that the determinations of Hearing Panels must be endorsed by the main Committee.

vi) Replacing the wording in the Standards Committee Terms of Reference whereby “Standards Advisory Board” or “Board” shall read “subcommittee”. The current wording fails to distinguish between the two types of subcommittee that operate under the main Committee and whose task it is to scrutinise and ultimately hear individual cases. These are the Standards Advisory Board and the Hearing Panel. The proposal at iv) above makes this distinction clearer, and this should also be reflected in the Terms of Reference.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

None

5.2 Legal Implications

The report is concerned throughout with legal implications. The changes are required as a result of experience and reflection upon the operation of the Code and the Arrangements since they were last amended in 2014.

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the Report
Equal Opportunities	NO	
Policy	YES	
Sustainable and Environmental	NO	
Crime and Disorder	YES	
Human Rights Act	NO	
Elderly/People on Low Income	NO	
Corporate Parenting	NO	

7. BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

8. CONSULTATIONS - Standards Committee meeting 21st March 2017

9. REPORT AUTHOR - Kamal Adatia, Monitoring Officer, Tel 0116 454 1401