

Public Document Pack

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A meeting of **Standards Committee** will be held in the Committee Rooms, East Pallant House on **Monday 6 November 2023 at 2.00 pm**

MEMBERS: Ms M Corfield (Chair), Mr S Boulcott, Mr R Briscoe, Mx R Chant, Mr J Cross, Mr C Todhunter and Mr J Vivian

INDEPENDENT PERSONS: Mr R Andrews and Mr J Thompson

AGENDA

1 **Chair's Announcements**

Any apologies for absence which have been received will be noted at this stage.

There will be announced at this stage any urgent items which, due to special circumstances, will be dealt with under late items.

2 **Approval of Minutes** (Pages 1 - 4)

The Standards Committee will be asked to approve the minutes of the previous meeting which took place on 30 May 2023.

3 **Declarations of Interests**

Members are to make any declarations of disclosable pecuniary, personal and/or prejudicial interests which they might have in respect of matters on the agenda for this meeting.

4 **Public Question Time**

In accordance with Chichester District Council's scheme for public question time the Standards Committee will receive any questions which have been submitted by members of the public in writing by noon two working days before the meeting. Each questioner will be given up to three minutes to ask their question. The total time allocated for public question time is 15 minutes subject to the Chair's discretion to extend that period.

5 **Standards Arrangements** (Pages 5 - 25)

The Committee is requested to consider the report and its appendices and make the following resolutions:

1. That the Committee set up a task and finish group to review the Arrangements for Code of Conduct investigations.

2. That the Committee agree terms of reference for that task and finish group as set out at Appendix 2 of this report.

6 **Parish Representatives** (Pages 27 - 29)

The Committee is requested to consider the report and its appendix and make the following resolution:

That the Committee approve the Parish Councillors listed in the appendix to the report to the role of Parish Representative of this Committee.

(Please note the appendix to this report is to follow).

7 Unreasonable Complainants Policy (Pages 31 - 37)

The Committee is requested to consider the report and its appendix and make the following recommendation to Full Council:

That the Committee recommend the policy appended to this report to Full Council.

8 Late Items

The Standards Committee will consider any late items as follows:

- a) Items added to the agenda papers and made available for public inspection.
- b) Items which the Chair has agreed should be taken as matters of urgency by reason of special circumstances to be reported at the meeting.

9 Exclusion of the Press and Public

The Committee is asked to consider in respect of the items on the agenda whether the public, including the press, should be excluded from the meeting on the grounds of exemption under Parts I to 7 of Schedule 12A of the Local Government Act 1972, as indicated against the item and because, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information. **The reports dealt with under this part of the agenda are attached for members of the Committee and senior officers only (salmon paper).**

NOTES

- 1) The press and public may be excluded from the meeting during any item of business wherever it is likely that there would be disclosure of 'exempt information' as defined in section 100A of and Schedule 12A to the Local Government Act 1972.
- 2) The press and public may view the report appendices which are not included with their copy of the agenda on the Council's website at Chichester District Council - Minutes, agendas and reports unless they contain exempt information.
- 3) Subject to Covid-19 Risk Assessments members of the public are advised of the following;
 - Where a member of the public has registered a question they will be invited to attend the meeting and will be issued a seat in the public gallery.
 - You are advised not to attend any face to face meeting if you have symptoms of Covid.
- 4) Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of this meeting from the public seating area is permitted. To assist with the management of the meeting, anyone wishing to do this is asked to inform the chairman of the meeting of their intentions before the meeting starts. The use of mobile devices for access to social media is permitted, but these should be switched to silent for the duration of the meeting. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography. Filming of children, vulnerable adults or members of the audience who object should be avoided. [Standing Order 11.3 of Chichester District Council's Constitution]



Minutes of the meeting of the **Standards Committee** held in the Committee Rooms, East Pallant House on Tuesday 30 May 2023 at 1.00 pm

Members present: Ms M Corfield (Chair), Mr S Boulcott, MX R Chant, Mr C Todhunter and Mr J Vivian

Parish representatives present:

Independent Members present:

Not present: Mr R Briscoe and Mr J Cross

Officers present all items: Mrs L Baines (Democratic Services Manager) and Mr N Bennett (Divisional Manager for Democratic Services)

1 **Chair's Announcements**

Cllr Corfield welcomed all those present and those watching online.

Apologies for absence were received for Cllr Briscoe and Cllr Cross.

2 **Approval of Minutes**

Mr Bennett explained that as the members of the Committee were not present at the previous meeting he could confirm that no concerns had been raised about the minutes and as such members could vote to approve if they chose to do so.

RESOLVED

That the minutes of the Standards Committee held on 25 January 2021 be approved as a correct record.

3 **Declarations of Interests**

Mr Andrews, one of the council's Independent Persons was present and wished to declare a pecuniary interest in agenda item 6 as an Independent Person.

4 **Public Question Time**

There were no public questions.

5 **Review of past complaint numbers**

Mr Bennett was invited to outline the item. He explained that there are two main types of complaint. The first being informal. Those complaints are received by email or during conversation. The second type of complaint is formal where a formal complaints form is submitted.

For informal complaints correspondence is held between Mr Bennett and the complainant. This is stored on the council's IKEN system with limited access rights.

For formal complaints correspondence is recorded. This includes whether it is a district or parish councillor complaint, a summary of the complaint, the date it was received, the date the matter closed, when and which Independent Person was notified and the outcome and any sanction.

Since January 2023 there have been nine formal complaints and 15 informal complaints (one of which turned into a formal complaint).

Mr Bennett explained that 70% of complaints related to Social Media. He then outlined the nature of the other cases.

Cllr Corfield thanked Mr Bennett for the report.

6 **Independent Persons Payment**

Cllr Corfield confirmed that she had agreed for Mr Andrews to remain at the table to answer members questions during the introduction of the item before leaving the room for the debate.

Mr Bennett was then invited to outline the item. He explained that the post of the Independent Person had been expanded through time. It acts as an advisory to the Monitoring Officer for complaints as an external perspective. He confirmed that members are able to approach one of the Independent Persons for advice. This has now been extended to complainants too.

Cllr Corfield then invited Mr Andrews to speak. He outlined his experience in public sector governance and his role as a sounding board to the Monitoring Officer. He then invited members questions.

Cllr Todhunter asked how much time was spent on the role. Mr Andrews explained that every complaint is different and can range from an hour to a number of hours. Mr Bennett added that one case had produced 130 pages for the Independent Person to read.

Mr Andrews was then invited to leave the room as there were no further questions for him.

Cllr Corfield commented that the role of the Independent Person requires a high level attention to detail and communication skills which should be recognised.

Cllr Chant asked whether there had been a precedence set for Independent Persons payments and whether a payment would be per case, per hour, per page or a salary per annum. Mr Bennett explained that there is a precedent for payment and that the council and one other authority are the only ones in the area that do not provide payment. The total is usually an amount in the hundreds of pounds region.

Cllr Todhunter asked whether the Independent Persons can claim expenses, how they would be paid, whether they would have the option to decline and whether it could be backdated. Mr Bennett explained that expenses are offered but often petrol/travel claims are not made. Any payment would be made through the Payroll system and would be optional. He explained that backdating was unlikely to be possible however an honorarium one off payment maybe possible should members wish to recommend that onto Council.

Cllr Vivian asked whether it was possible to reflect an Independent Person's experience through a pay scale. Mr Bennett explained that it was more likely to be an annual payment.

Cllr Chant asked how an honorarium would be calculated. Mr Bennett explained he would need to consider that if it were recommended but clarified that the top end of an honorarium would not normally exceed £1000.

Cllr Corfield asked Mr Bennett to sum up. Mr Bennett explained that members could vote to recommend to Council that the Independent Persons receive an annual payment. If that were not carried another idea would be voted on. If it were carried members could then vote on whether to recommend one off honorariums to the current and recent Independent Persons.

In a vote the members agreed to the annual payment.

In a further vote members agreed to honorarium payments.

RECOMMENDED TO COUNCIL

That the Standards Committee recommends the following to Full Council:

1. That the Monitoring Officer be tasked with providing costing options to Full Council for the Independent Persons to receive an annual payment (stipend) in line with local authority rates.
2. That the Monitoring Officer be further tasked with providing costings to Full Council for the Independent Persons current and recent to receive honorarium payments in line with local authority rates.

7 Late Items

The Monitoring Officer invited by the Cllr Corfield asked members if they wished a further meeting to be convened to discuss the procedure of Sub-Committees. Members were in favour of the proposal.

RESOLVED

That a meeting of the Standards Committee be convened at a time agreeable to the Chair of the Committee to discuss the procedural arrangements for Standards Sub-Committees.

8 Exclusion of the Press and Public

There was no requirement to exclude the press and the public.

The meeting ended at 2.02 pm

CHAIRMAN

Date:

Chichester District Council

Standards Committee

November 2023

Standards Arrangements

1. Contacts

Report Author:

Nicholas Bennett, Monitoring Officer and Divisional manager Democratic Services
Tel: 01243 534657 E-mail: nbennett@chichester.gov.uk

Cabinet Member:

Mark Chilton, Cabinet Member for Support Services
Tel: 01243 E-mail: MChilton@chichester.gov.uk

2. Recommendation

- 2.1 That the Committee set up a task and finish group to review the Arrangements for Code of Conduct investigations.**
- 2.2 That the Committee agree terms of reference for that task and finish group as set out at Appendix 2 of this report.**

3. Background

- 3.1 Conduct of members is carried out by the Council in accordance mostly with national law, in particular the Localism Act 2011. It has also adopted the national standard version Code of Conduct.
- 3.2 Additional to these broad principles and requirements the Council is also required to have “arrangements” in place which establish how they are applied locally. They set out who makes decisions, what they are authorised to do, when they must consult and so on.
- 3.3 The current arrangements have not been revisited since 2015 and the Monitoring Officer asks this Committee to establish a task and finish group to consider the arrangements, report back to this Committee and potentially onward to Full Council.

4. Outcomes to be achieved

- 4.1. The intention is to ensure that arrangements are fit for purpose and meet the expectations of members and are updated to current technology and otherwise.

5. Alternatives that have been considered

- 5.1 The opportunity to apply was sent out to all Parishes and volunteers sought from every Parish. The Chair carried out a shortlisting process and all candidates were considered against the requirements of the roles.

6. Resource and legal implications

6.1 Budget implications are limited and officer support for the functions of standards is met from existing budgets and support of the task and finish group would be met from those existing budgets. The legal requirements for panels are set out in this report.

7. Consultation

7.1 No consultation is required at this time. Further reports would be made public and open to public questions in the ways provided in local authority law.

8. Community impact and corporate risks

9.1 Effective decision requires review of existing procedures, failing to do so would be a corporate risk.

9. Other Implications

Are there any implications for the following? If you tick "Yes", list your impact assessment as a background paper in paragraph 13 and explain any major risks in paragraph 9		
	Yes	No
Crime & Disorder: The Council has a duty "to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area". Do the proposals in the report have any implications for increasing or reducing crime and disorder? By its nature the arrangements are there to enable effective fair decision making on conduct including conduct which is a breach of criminal duties imposed upon Councillors.	Yes	
Climate Change and Biodiversity: Are there any implications for the mitigation of/adaptation to climate change or biodiversity issues? If in doubt, seek advice from the Environmental Strategy Unit (ESU).		No
Human Rights and Equality Impact: You should complete an Equality Impact Assessment when developing new services, policies or projects or significantly changing existing ones. For more information, see Equalities FAQs and guidance on the intranet or contact Corporate Policy.		No – changes are not considered so significant as to required EIA.
Safeguarding and Early Help: The Council has a duty to cooperate with others to safeguard children and adults at risk. Do these proposals have any implication for either increasing or reducing the levels of risk to children or adults at risk? The Council has committed to dealing with issues at the earliest opportunity, do these proposals have any implication in reducing or increasing demand on Council services?		No
General Data Protection Regulations (GDPR): Does the subject of the report have significant implications for processing data likely to result in a high risk to the rights and freedoms of		No

<p>individuals? Processing that is likely to result in a high risk includes (but is not limited to):</p> <ul style="list-style-type: none"> • systematic and extensive processing activities and where decisions that have legal effects – or similarly significant effects – on individuals. • large scale processing of special categories of data or personal data relation to criminal convictions or offences. • Any larger scale processing of personal data that affects a large number of individuals; and involves a high risk to rights and freedoms e.g. based on the sensitivity of the processing activity. • large scale, systematic monitoring of public areas (including by CCTV). <p>Note - If a high risk is identified a Privacy Impact Assessment must be provided to the Data Protection Officer.</p>		
<p>Other (Please specify): eg health and wellbeing</p>		

10. Appendices

11.1 Appendix One – The Current “Arrangements”

11.2 Appendix Two – Draft Terms of Reference for the Task and Finish Group

11. Background Papers

None

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Chichester District Council

Arrangements for Dealing with Standards Allegations under the Localism Act 2011

1 Context

These **Arrangements** set out how you may make a complaint that an elected or co-opted member of this authority or of a Parish Council within the District has failed to comply with the authority's code of conduct, and set out how the authority will deal with allegations of a failure to comply with the authority's code of conduct.

Under section 28 (6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a member or co-opted member of the authority or Parish Council or of a committee or sub-committee of the authority has failed to comply with that authority's code of conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one 'independent person', whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage, or by a member against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as **appendix one** to these **Arrangements** and available for inspection on the authority's website and on request from the reception desk at Chichester District Council East Pallant House 1 East Pallant Chichester.

3 Making a complaint

If you wish to make a complaint, please write or e-mail to:

Mr Nicholas Bennett
Legal & Democratic Services Manager and Monitoring Officer
Chichester District Council
East Pallant House
1 East Pallant
Chichester
West Sussex
PO19 1TY

nbennett@chichester.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the reception at Chichester District Council East Pallant House 1 East Pallant Chichester.

Please do provide us with your name and a contact address or e-mail address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. A full copy of your complaint form and supporting documents will be sent to the member against whom your complaint is about (the subject member). The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. We will consider your request and if we decide to agree to it we will not disclose your name and address to the member against whom you make the complaint without your prior consent. If we refuse your request you will be notified and given the opportunity to decide whether or not you wish to proceed with your complaint.

The subject member may provide his/her written comments about your complaint to the Monitoring Officer. You will be sent a copy of such comments and may send a response if you feel that you have new points to make.

The subject member will have the opportunity to consult, at this stage, with an Independent Person.

4 Validation

Your complaint will be considered by the Monitoring Officer. If she is of view that it does not fundamentally relate to a code of conduct matter she will decline to process it further under this procedure. For example it is generally considered that complaints about statements made in respect of the merits of a planning application will not be dealt with under this procedure. The planning system itself is considered to give all parties a fair opportunity to express their views and comment upon the views of others. The code of conduct complaints procedure will not produce an outcome that will assist in the planning process.

If the Monitoring Officer has declined to process your complaint further under this procedure, you will be informed of this and, if possible other options open to you will be suggested.

Once validated by the Monitoring Officer, your complaint will proceed to the Initial Assessment.

5 Will your complaint be investigated?

Monitoring Officer's Initial Assessment

The Monitoring Officer will carry out an initial assessment of every complaint received and, after consultation with the Independent Person, may take a decision as to whether it should proceed to the Assessment Sub-Committee stage. The details given in your complaint form together with any supporting documents that

you have submitted, together with any comments that the subject member has made and any further response from you, will be taken into consideration.

The Monitoring Officer may decide a complaint does not proceed if:

- It is about someone who is no longer a member of the Council
- There has been a long delay before the complaint was made
- The complaint appears to be minor, politically motivated, malicious or not sufficiently serious to warrant further action
- Whilst framed as a code of conduct matter, is fundamentally a challenge to an expression of fact or opinion made during a debate at a Council meeting or is fundamentally a challenge to the underlying merits of a council determination (eg a planning application)
- In order to resolve the matter, you are prepared to accept and the subject member has given a written apology
- Both you and the subject member are prepared to resolve the matter by having a mediation / conciliation meeting

This list is not intended to be exhaustive and the Monitoring Officer in consultation with the Independent Person may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

If you are a parish councillor and the subject member (or one of them) is a member of the same parish council, the Monitoring Officer may, in consultation with the Independent Person, refer the entire complaint to the Sussex Associations of Local Councils (SALC). SALC will appoint a Panel to hear your complaint and decide whether it is sufficiently serious to be put through the procedure set out below or whether it should be settled in some other way within the parish council.

Where the Monitoring Officer has taken the decision that the complaint does not merit further consideration or is to be referred to SALC for mediation / conciliation, the Monitoring Officer will inform you of his/her decision and the reasons for that decision.

Assessment Sub Committee

The Assessment Sub-Committee will consist of three members of the Council's Standards Committee. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will also attend in an advisory capacity. The Monitoring Officer will refer the complaint to the Assessment Sub-Committee provided she considers it is appropriate to do so (see above: Monitoring Officer's Initial Assessment).

The complaint form and any supporting documents that have been submitted will be copied to all members of the Sub Committee.

Having received a copy of the complaint form the subject member may have submitted written comments to the Monitoring Officer. Such comments will also be copied to all members of the Assessment Sub-Committee, together with any further response from you.

The Assessment Sub-Committee is likely to be held in private and therefore neither you nor the subject member may attend. The Monitoring Officer and the Independent Person will attend and, if required, give advice.

The Assessment Sub-Committee may decide:

- (i) To take no further action on the complaint
- (ii) To ask for further information
- (iii) To refer the complaint to the Monitoring Officer to arrange for an investigation to be carried out
- (iv) To refer the matter to the Monitoring Officer for other steps eg for a written apology from the subject member to be sent to the complainant or to request mediation / conciliation or training for the member
- (v) To refer the complaint to the police or other regulatory agency if the complainant identifies potential criminal conduct or breach of other regulation.

Where the Monitoring Officer or the Assessment Sub-Committee requires additional information in order to come to a decision, you may be asked to provide such information or the Assessment Sub-Committee may request information from the subject member against whom your complaint is directed.

As stated above, the Assessment Sub-Committee may request that the Monitoring Officer attempts to resolve the matter informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology or other actions..

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the police and/or other regulatory agencies.

The complainant and the subject member will be notified of the Assessment Sub-Committee's decision with reasons.

6 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as **appendix two** to these **Arrangements**.

If the Assessment Sub-Committee decides that a complaint merits formal investigation, the Monitoring Officer will appoint an investigating officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or

Speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the subject member and ask that member to provide his/her explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the subject member, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

7 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if satisfied, in consultation with the Independent Person, that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the subject member, notifying you that they are satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, the Investigating Officer may be asked to reconsider the report.

8 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then refer the matter for local hearing before the Hearing Sub-Committee.

The Hearing Sub-Committee will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as **Appendix Three** to these **Arrangements**.

Essentially, the Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. At the hearing, the Investigating Officer will present his/her report, call such witnesses as considered necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct.

For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearing Sub-Committee. The subject member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearing Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearing Sub-Committee concludes that the member did fail to comply with the Code of Conduct, it will then consider what action, if any, the Hearing Sub-Committee should take as a result of that failure to comply. In doing this, the Hearing Sub-Committee will give the subject member an opportunity to make representations and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

9 What action can the Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?

The Standards Committee has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearing Sub-Committee may:

- 3.1 9.1 Publish its findings in respect of the member's conduct.
- 3.2 9.2 Write a formal letter of censure to the councillor found to have breached the Code of Conduct.
- 3.3 9.3 Report its findings to the Council meeting for information.
- 3.4 9.4 Recommend to the member's group or the parish council (or in the case of un-grouped members recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- 3.5 9.5 Recommend to the Leader of the Council or the parish council that the member be removed from the Cabinet or be removed from particular portfolio responsibilities, or if the subject member is the Leader of the Council, recommend to the Council that the Leader be removed from office in accordance with Article 6 of Part 2 of the Constitution.
- 3.6 9.6 Recommend to the relevant Council to arrange training or mediation / conciliation or other appropriate remedy for the member.
- 8.7 9.7 Accept the written apology of the subject member to you.

The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

10 What happens at the end of the hearing?

At the end of the Hearing Sub-Committee, the chairman will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the

Code of Conduct and as to any actions which the Hearing Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, a formal decision notice will be issued and a copy will be sent to you, to the subject member and the clerk to any relevant parish council. The decision notice will be available for public inspection at the Council's offices and the decision may be reported to the next meeting of the Council.

11 Who sits on the Hearing Sub-Committee?

The Hearing Sub-Committee is a sub-committee of three (3) members of the Council's Standards Committee. The Hearing Sub-Committee will elect one of its members to act as chairman.

The Independent Person is invited to attend all meetings of the Hearing Sub-Committee and their views are sought and taken into consideration before the Hearing Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

12 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is then appointed by the Council. The definition of an Independent Person can be found in section 28 of the Localism Act 2011.

13 Revision of these arrangements

The Council may by resolution agree to amend these **Arrangements**, and has delegated to the Monitoring Officer the right to depart from these **Arrangements** where she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

14 Appeals

There is no right of appeal for you as complainant or for the subject member against a decision of the Monitoring Officer or of the Assessment Sub-Committee or Hearing Sub Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Code of Conduct

Appendix Two

Investigations Procedure

Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a member should be investigated.

It should be read in conjunction with the document **Arrangements for Dealing with Standards Allegations under the Localism Act 2011** [link].

The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Notification requirements

Once an Investigating Officer has been appointed, the Monitoring Officer will notify the subject member against whom the allegation has been made that the matter is being referred for investigation and inform him/her who is conducting the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how to conduct the investigation.

They may require the subject member and the complainant to provide them with information and/or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

The Investigating Officer may request any person to attend an interview with him/her and/or provide him/her with documents and/or information.

Any person who is interviewed may arrange to have a friend or solicitor with him/her (provided that person is not connected to any matter under investigation).

The Investigating Officer will produce a written statement for signature in respect of any interviews that they conduct.

Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the member is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation shall maintain confidentiality in order to maintain the integrity of the process.

Draft report

When the Investigating Officer is satisfied that they have sufficient information, or have obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the subject member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the Code of Conduct.

The draft report should be sent to the Monitoring Officer, the complainant, the subject member and the Independent Person for their comments. The Investigating Officer may wish to conduct further investigations once they have received those comments, before producing the final report.

Final report

The final report should include the same sections as the draft report and a final conclusion as to whether there has been a breach of the Code of Conduct.

It may be helpful to include a chronology, summary of disputed facts and/or to append witness statements or other documents.

Action on receipt of report

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and, if satisfied that the report is sufficient, in consultation with the Independent Person, will write to the complainant and the subject member notifying them that no further action is required and enclosing a copy of the report.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

If the report concludes that there is evidence of a failure to comply with the Code of Conduct the matter will be referred to the Hearing Sub-Committee.

The hearings process is the subject of a separate procedure [\[link\]](#).

Hearings Procedure

The following process will be followed where the Investigating Officer has considered that there is evidence that the subject member has breached the Code of Conduct.

Pre-hearing process

The Monitoring Officer will, where possible, arrange for the Hearing Sub-Committee to meet to hear the complaint within three months of receiving the Investigating Officer's report. She should aim to find a date which the witnesses, the Investigating Officer, the complainant and the subject member can attend. The Monitoring Officer should give all those involved sufficient notice of the date for the Hearing Sub-Committee meeting.

The Monitoring Officer will require the subject member to give his/her response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing Sub-Committee.

If the subject member wishes to rely on evidence at the committee, they should provide it in writing to the Monitoring Officer as soon as possible. The Investigating Officer may have taken a witness statement from him/her or set out his/her comments in the report but if the subject member wishes to add to what the Investigating Officer has written they should provide a witness statement to the Monitoring Officer as soon as possible.

The Hearing Sub-Committee will not allow new arguments or evidence to be presented at the hearing.

The Monitoring Officer will consider whether it is appropriate to hear two complaints together eg if they relate to the same member or to the same incident or occasion.

The subject member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

The Monitoring Officer should provide the members of the Hearing Sub-Committee with all the evidence in advance of the hearing so that they can read it to identify any potential conflicts of interest.

The Monitoring Officer will provide the Hearing Sub-Committee with a report which summarises the allegation. This should include a list of agreed facts and disputed issues and outline the proposed procedure for the hearing (this will be based upon the **Procedure for the Hearing Sub-Committee** at the end of this appendix).

A Member Services officer will act as a point of contact for the subject member, the complainant, the Independent Person and any witnesses who will give evidence.

The Hearing Sub-Committee

The Hearing Sub-Committee will generally take place in public. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will attend in an advisory capacity, in addition to the three voting members of the Sub-Committee.

An Independent Person will be invited to attend the hearing and will be asked to comment on whether there has been a breach of the Code of Conduct and on appropriate sanctions.

If the subject member does not attend the hearing, the Hearing Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report and, if it decides to do so, any evidence that it hears.

Whilst the Hearing Sub Committee is a meeting of the authority, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Hearing Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public.

The Hearing Sub-Committee will decide disputed issues and whether the subject member has breached the code on the balance of probabilities.

Representation

The subject member may choose to be represented if they wish. They will have to bear the cost of being represented. The Hearing Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive. The Hearing Sub-Committee will have the discretion to hear opening or closing arguments from the subject member and the Investigating Officer if it feels it would assist them in reaching a decision.

Evidence

The Hearing Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within its discretion.

Generally the subject member is entitled to present his/her case as they see fit.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses will normally provide written evidence, which can be read at the hearing.

Witnesses may be questioned by the Hearing Sub-Committee, the Independent Person, the Investigating Officer and the subject member.

The onus is on the subject member to ensure the attendance of the witnesses whom they would like to give evidence to assist them. The Hearing Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

Neither the Hearing Sub-Committee nor the subject member will have any power to compel witnesses to give evidence.

At the Hearing Sub Committee

At the hearing, the Investigating Officer will present his/her report, call such witnesses as they consider necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. The Investigating Officer may ask the complainant to attend and give evidence to the Hearing Sub-Committee. The

Investigating Officer may be asked about his/her report or any matters relating to his/her involvement.

Role of the Monitoring Officer

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer.

The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process. He or she will remain neutral throughout and will provide independent advice to the Hearing Sub-Committee.

Role of the complainant

The role of the complainant will usually be limited to being a witness for the Investigating Officer and they are not a party to the proceedings. However, the Hearing Sub-Committee might wish to consult him/her at any stage in the hearing if it feels that his/her comments would assist it.

Decision

The Hearing Sub-Committee must consult the Independent Person before reaching its decision.

The Hearing Sub-Committee may wish to retire to consider its decision. The Monitoring Officer may assist it in setting out the reasons for their decision.

The Hearing Sub-Committee will reach a decision as to whether the subject member has breached the code of conduct. If it decides that the subject member has not breached the Code of Conduct, it will take no further action. If it decides that the subject member has breached the Code of Conduct, it should go on to decide what sanction, if any, is appropriate.

Sanctions

The Hearing Sub-Committee will consult the Independent Person before imposing any sanction and give the subject member the opportunity to make representations.

The Hearing Sub-Committee should consider all the mitigating and aggravating circumstances that appear to it to be relevant. For example, it may wish to consider:

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the subject member now? Have they apologised?
- Has the subject member previously been dealt with for a breach of the Code of Conduct?

The following are examples of mitigating and aggravating factors, but these lists should not be regarded as exhaustive.

Mitigating Factors

- An honest but mistaken belief that the action was not a breach of the Code of Conduct
- A previous record of good service
- Evidence that they were suffering from ill health at the time of the breach

Aggravating Factors

- Dishonesty
- Continuing to deny the facts or blaming other people
- Evidence of a failure to follow advice or warnings

The priority of the Hearing Sub-Committee should be to ensure that there are no further breaches of the Code of Conduct and that public confidence is maintained.

Sanctions

The sanctions available to the Hearing Sub-Committee are:

- Publish its findings in respect of the member's conduct.
- Write a formal letter of censure to the member found to have breached the Code of Conduct.
- Report its findings to Council for information.
- Recommend to the member's group leader or the Parish Council (or, in the case of un-grouped members, recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- Recommend to the Leader of the Council or the Parish Council that the member be removed from the Cabinet or removed from particular portfolio responsibilities.
- Recommend to the relevant Council training, mediation / conciliation (or other appropriate remedy) for the member.
- Accept the written apology of subject member.

Notice of the decision

As soon as is reasonably practicable after the hearing, the Monitoring Officer shall issue a formal decision notice in consultation with the chairman of the Hearing Sub-Committee, and send a copy to the complainant, the subject member and any relevant parish council. The decision notice will be available for public inspection and may be reported to the next meeting of the Council.

Procedure of the Hearing Sub-Committee

- 1 Election of a chairman.
2. Chairman to introduce members and all parties present.
- 3 Chairman to outline complaint and explain procedure.
- 4 Investigating officer to outline the case as to why they believe the subject member has breached the Code of Conduct and call any witnesses (including the complainant if necessary).
- 5 Subject member and the Hearing Sub-Committee may ask questions of the Investigating Officer and any witnesses.
- 6 The subject member outlines their case as to why they believe that they have not breached the Code of Conduct and may call witnesses.
- 7 The Investigating Officer (and possibly the complainant) and the Hearing Sub-Committee may ask questions of the subject member or any of his/her witnesses.
- 8 The subject member and the Investigating Officer may be asked to give brief closing remarks.
- 9 The Independent Person will be invited to give comments.
- 10 The Hearing Sub-Committee will retire to consider whether the subject member has breached the Code of Conduct.
- 11 The chairman will announce the Hearing Sub-Committee's decision as to whether the Code of Conduct has been breached by the subject member.
- 12 If no breach, is found the meeting will be closed.
- 13 If a breach is found, the subject member will be invited to give further comment on any mitigating circumstances;
- 14 The Investigating Officer may comment upon appropriate sanction.
- 15 The Independent Person will be invited to give further comments.
- 16 The Hearing Sub-Committee will retire to consider sanction.
- 17 The Hearing Sub-Committee will announce sanctions which it is imposing on the subject member and then close the meeting.
- 18 A written decision notice will be issued and sent to all parties as soon as reasonably practicable after the Hearing Sub-Committee.

Suggested draft Terms of Reference – Arrangements Task and Finish Group

- Project Background. The group is to consider the existing “Arrangements” for investigations under the Chichester District Council Code of Conduct
- Project Objectives. Having considered the Arrangements, to make recommendations to Standards (and, if necessary, onward to full Council) for any updating to those Arrangements.
- Issues to be explored and analysed against certain criteria. The detail and application of the Arrangements against recent changes to Council activities and also the recently adopted national Code of Conduct.
- Expertise required. 3 Members of Standards Committee, supported by the Monitoring Officer and a Democratic Services Officer.
- Reporting requirements. To report back to Standards Committee with an amended version of the Arrangements and a cover report suitable to be presented to full Council if changes are recommended.
- Work plan, including activity schedules. Two meetings of the task and finish group to be arranged between November 2023 and February 2024.

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Chichester District Council

Standards Committee

November 2023

Parish Representatives

1. Contacts

Report Author:

Nicholas Bennett, Monitoring Officer and Divisional manager Democratic Services
Tel: 01243 534657 E-mail: nbennett@chichester.gov.uk

Cabinet Member:

Mark Chilton, Cabinet Member for Support Services
Tel: 01243 E-mail: MChilton@chichester.gov.uk

2. Recommendation

2.1 That the Committee approve the Parish Councillors listed in this report to the role of Parish Representative of this Committee.

3. Background

- 3.1 The terms of reference for this Committee provide for the right to appoint three or more members as Parish Representatives. The Council standards committee has appointed representatives to this role for many years.
- 3.2 This committee carries out several duties to oversee standards and the duties of members of District and Parish Councils within the area of the District. Those duties are framed by ss. 26 to 37 of the Localism Act 2011 and it is required that the Committee is politically balanced. As Parish members they are not politically aligned so do not affect the political balance of the Committee.
- 3.3 By operation of s.104 of the Local Government Act 1972 independent members such as Parish representatives must be non-voting for the full committee. However, they are able to speak and receive all information as any other member is entitled.
- 3.4 The terms of reference of this Committee require a Parish Councillor to be present when Parish Council complaints are being discussed so the appointments will enable the Council to fulfil its duties as to s.27 of the Localism Act 2011 being the oversight of the conduct of Parish Councillors.
- 3.5 An exercise to encourage all Parishes to propose representatives was undertaken earlier this year. A strong response was received - 14 applications were submitted and it was commented that every applicant could have carried out the role. These applications were shortlisted for the Chair of this Committee by the Monitoring Officer. The shortlist was created looking to generate a geographically spread range of members, with diverse interests in particular as to standards and governance. The Chair approved the shortlist after a meeting considering the applications.

4. Outcomes to be achieved

- 4.1. This Committee addresses conduct by both Parish and District members and having a Parish representative will enable the Council to operate for matters discussing allegations as to Parishes or otherwise as to Parishes in accordance with the Constitution.
- 4.2 Parish representatives will ensure that the duty of the Committee to provide advice to Parish Councils can be done from an informed position through the involvement of the Parish representatives.
- 4.3 Parish representatives will also be able to provide a purely Parish perspective upon conduct matters.
- 4.4 Overall, better and more informed conduct decisions will be made by the involvement of Parish Representatives.

5. Alternatives that have been considered

- 5.1 The opportunity to apply was sent out to all Parishes and volunteers sought from every Parish. The Chair carried out a shortlisting process and all candidates were considered against the requirements of the roles.

6. Resource and legal implications

- 6.1 Budget implications are limited and officer support for the Committee and Sub Committees is met from existing budgets. The legal requirements for panels are set out in this report.

7. Consultation

- 7.1 All Parishes were approached for Councillors willing to undertake this role.

8. Community impact and corporate risks

- 9.1 Effective decision making is informed decision making and uninformed decision making would be a corporate risk. By involving Parish representatives Conduct decision making will include the perspective of Parishes.

9. Other Implications

Are there any implications for the following?		
If you tick "Yes", list your impact assessment as a background paper in paragraph 13 and explain any major risks in paragraph 9		
	Yes	No
Crime & Disorder: The Council has a duty "to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area". Do the proposals in the report have any implications for increasing or reducing crime and disorder?	Yes	

By its nature representatives on Standards are there to enable a more informed, stronger, decision making on conduct including conduct which is a breach of criminal duties upon Councillors.		
Climate Change and Biodiversity: Are there any implications for the mitigation of/adaptation to climate change or biodiversity issues? If in doubt, seek advice from the Environmental Strategy Unit (ESU).		No
Human Rights and Equality Impact: You should complete an Equality Impact Assessment when developing new services, policies or projects or significantly changing existing ones. For more information, see Equalities FAQs and guidance on the intranet or contact Corporate Policy.		No – changes are not considered so significant as to required EIA.
Safeguarding and Early Help: The Council has a duty to cooperate with others to safeguard children and adults at risk. Do these proposals have any implication for either increasing or reducing the levels of risk to children or adults at risk? The Council has committed to dealing with issues at the earliest opportunity, do these proposals have any implication in reducing or increasing demand on Council services?		No
General Data Protection Regulations (GDPR): Does the subject of the report have significant implications for processing data likely to result in a high risk to the rights and freedoms of individuals? Processing that is likely to result in a high risk includes (but is not limited to): <ul style="list-style-type: none"> • systematic and extensive processing activities and where decisions that have legal effects – or similarly significant effects – on individuals. • large scale processing of special categories of data or personal data relation to criminal convictions or offences. • Any larger scale processing of personal data that affects a large number of individuals; and involves a high risk to rights and freedoms e.g. based on the sensitivity of the processing activity. • large scale, systematic monitoring of public areas (including by CCTV). Note - If a high risk is identified a Privacy Impact Assessment must be provided to the Data Protection Officer.		No
Other (Please specify): eg health and wellbeing		

10. Appendices

11.1 Appendix One – list of proposed representatives with outline of their experience.

11. Background Papers

None

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Chichester District Council

Standards Committee

November 2023

Unreasonable Complainants Policy

1. Contacts

Report Author:

Nicholas Bennett, Monitoring Officer and Divisional manager Democratic Services
Tel: 01243 534657 E-mail: nbennett@chichester.gov.uk

Cabinet Member:

Mark Chilton, Cabinet Member for Support Services
Tel: 01243 E-mail: MChilton@chichester.gov.uk

2. Recommendation

2.1 That the Committee recommend the policy appended to this report to Full Council

3. Background

- 3.1 Most people who get in touch with the Council act reasonably and appropriately. Very occasionally individuals contacting the Council will act in a manner which is neither reasonable nor appropriate.
- 3.2 The Council tries to encourage behaviours which are reflective, and to actively learn from complaints. Staff receive training, in particular in public facing roles, to encourage seeing complaints as sources of improvement, constructive ways to develop services and skills. Despite that it is not uncommon for complainants to be challenging in their conduct.
- 3.3 The Council has complaints policies for officers and members and has an existing tool for officers who need to deal with challenging people and locations – a caution alert register. Officers believe that the area of complainants is one which necessitates specific advice and a procedure to address what appears to be an increasing number of unreasonable complaints.
- 3.4 The Local Government Association has flagged its concerns about *“increasing examples of incidents of intimidation within councils, involving councillors as well as officers.”* (Civility in Public Life report, 3rd October 2019).

4. Outcomes to be achieved

- 4.1. The intention is to ensure that the Council officers have a tool which enables complaints to be analysed against set standards of reasonable, and unreasonable, behaviour so that problematic complainant behaviour can be addressed whilst complaints can continue to be investigated and considered.

4.2 Advantages of clarity and transparency will also be created for complainants as well as officers and members. This will also establish a clear structure against which the Council will have accepted it should be measured by the Ombudsman and give broader public confidence that complaints are being dealt with fairly, but that resources are not being applied disproportionately to those who are difficult and “shout loudest” as it were.

5. Alternatives that have been considered

5.1 Existing Council policies could have been amended, or no policy could be applied by the Council to this area. Officers looked at a number of existing similar policies in services particularly in other Councils and the NHS. The policy attached is based upon what appears to be best practice amended to match local procedures.

6. Resource and legal implications

6.1 Budget implications are limited but it is hoped that the clarity of the rules will save the Council from having to employ bespoke arrangements individual to complainants which have historically required significant legal officer time. It is hoped that all officers and relevant managers will be able to apply the procedure in a more time efficient manner. The legal requirements for complaints are established mostly in operational guidance, the rules on what Councils must do is established through a long thread of analysis from the well known “Wednesbury” case and Ombudsman and Court decisions. Health and Safety Law sets expectations that employers have policies to protect staff including from abusive unreasonable behaviours.

7. Consultation

7.1 Officers reviewed other organisations policies. No wider consultation is intended in this policy. Strategic officers were consulted on the policy.

8. Community impact and corporate risks

9.1 Effective decision requires review of existing procedures, failing to do so would be a corporate risk.

9. Other Implications

Are there any implications for the following?		
If you tick “Yes”, list your impact assessment as a background paper in paragraph 13 and explain any major risks in paragraph 9		
	Yes	No
<p>Crime & Disorder: The Council has a duty “to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”. Do the proposals in the report have any implications for increasing or reducing crime and disorder?</p> <p>By its nature the arrangements are there to enable effective fair decision making on conduct and complaints. The policy matches encouragements in the Local Government “civility of public life” report as to intimidation of officers and councillors.</p>	Yes	

<p>Climate Change and Biodiversity: Are there any implications for the mitigation of/adaptation to climate change or biodiversity issues? If in doubt, seek advice from the Environmental Strategy Unit (ESU).</p>		No
<p>Human Rights and Equality Impact: You should complete an Equality Impact Assessment when developing new services, policies or projects or significantly changing existing ones. For more information, see Equalities FAQs and guidance on the intranet or contact Corporate Policy.</p>		No – changes are not considered so significant as to require EIA.
<p>Safeguarding and Early Help: The Council has a duty to cooperate with others to safeguard children and adults at risk. Do these proposals have any implication for either increasing or reducing the levels of risk to children or adults at risk? The Council has committed to dealing with issues at the earliest opportunity, do these proposals have any implication in reducing or increasing demand on Council services?</p>		No
<p>General Data Protection Regulations (GDPR): Does the subject of the report have significant implications for processing data likely to result in a high risk to the rights and freedoms of individuals? Processing that is likely to result in a high risk includes (but is not limited to):</p> <ul style="list-style-type: none"> • systematic and extensive processing activities and where decisions that have legal effects – or similarly significant effects – on individuals. • large scale processing of special categories of data or personal data relation to criminal convictions or offences. • Any larger scale processing of personal data that affects a large number of individuals; and involves a high risk to rights and freedoms e.g. based on the sensitivity of the processing activity. • large scale, systematic monitoring of public areas (including by CCTV). <p>Note - If a high risk is identified a Privacy Impact Assessment must be provided to the Data Protection Officer.</p>		No
<p>Other (Please specify): e.g. health and wellbeing</p>		

10. Appendices

10.1 Appendix One – Recommended draft policy

11. Background Papers

None

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Draft Unreasonable Complaints Policy

Chichester District Council is committed to dealing with complaints in an open and transparent way that is fair and equal to everyone.

This policy has been formulated to deal with the very small number of complainants whose frequency of contact with the authority, insoluble and persistent complaints, or unacceptable behaviour makes it necessary for special measures to be taken.

This policy sits alongside the Council's existing complaints policy and may be applied at any internal stage for that policy. It will not apply to complaints that have been referred on to the Ombudsman who shall apply their own policies to consideration of complaints referred to that body.

This policy may also be applied if an individual elects not to engage with the Council's complaints policy (or refuses to do so and continues to contact the Council).

This policy may be applied to complaints made to the Monitoring Officer about Councillors under the Code of Conduct thought that would be at the Monitoring Officers absolute discretion.

On the whole, dealing with complaints is a simple process but there are a small number of complainants who because of the frequency, nature or tone of their contact with us, adversely affect our ability to do our job and provide a service to others. We will refer to these complainants as 'unreasonably persistent' or vexatious and apply this policy.

For the purposes of this policy, unreasonable or unreasonably persistent complainants are those who make complaints that demonstrate one or more of the following features:

- clearly do not have any serious purpose or value.
- are designed to cause disruption or annoyance.
- have the effect of harassing the Council or can easily be seen as obsessive or unreasonable.

Decisions under this policy will be made by Directors at the Council unless expressly required to be made by other named officers within this policy itself.

Actions and behaviours of unreasonably persistent complaints

Complainants or anyone acting on their behalf may be deemed to be vexatious or persistent if one or more of the following applies:

- Refusing to specify the grounds of a complaint, despite help from the council.
- Refusing or unreasonably failing to co-operate with the Council's Complaints and Compliments procedure but still wanting the complaint resolved.
- Making what appear to be groundless complaints about the staff dealing with the complaint and looking to have them replaced.

- Taking an excessive ‘scattergun’ approach – complaining officially to the council as well as raising the same complaint with other bodies such as MP/councillor/police/solicitors/Local Government Ombudsman.
- Changing the basis of the complaint as the investigation moves forward and/or denying earlier statements.
- Raising trivial information and expecting this to be taken into account or raising lots of detailed but unimportant questions and insisting they are answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other people involved.
- Making excessive demands on staff while a complaint is being dealt with.
- Sending a high volume of letters, emails and/or phone calls.
- Registering repeat complaints after the complaint has been fully investigated and completed.
- Refusing to accept the final decision of a complaint.
- Refusing to accept a complaint is outside the remit of the complaints procedure.
- Persistently contact the council through different routes about the same issue.
- Someone who is not looking to resolve a dispute but is looking to cause unnecessary difficulties or problems to the council.
- Refusing to accept that matters aren’t within the council’s power to investigate if the matter is the responsibility of another organisation for example.

If a complainant isn’t happy with the outcome of their complaint and wishes to challenge it, this is not necessarily grounds to label them as ‘unreasonably persistent’.

This policy will be used as a last resort once all measures have been taken to resolve issues under the Council’s complaints procedure. We will make sure we have communicated appropriately with the complainant and make sure no new information that will affect the decision has been put forward.

The complainant will receive one written warning confirming that if their actions/behaviour continues, it will result in the Council treating them as an ‘unreasonably persistent complainant’ and future contact may be restricted.

Aggressive complainants

Where a complaint is raised as to aggression decisions under this policy shall be applied by a Director. If an appeal against a decision is submitted a final review shall be carried out by the Chief Executive or the Council Monitoring Officer as those two officers consider appropriate.

On occasions a complainant can go from being unreasonably persistent to offensive, abusive or threatening any of which will not be tolerated.

Complaints will be seen to be vexatious in any situation where violence has been used or threatened towards staff at any time. This will mean personal contact with the complainant will be stopped and they will only be allowed to contact the Council in writing or through representatives. All such incidents will be logged through the Council caution alert register process and reported to the police.

Where an allegation of aggressive behaviour is denied a Director shall be entitled to make a decision as to whether to put in place steps notwithstanding that denial at the absolute discretion of that Director pending any further relevant investigation or fact finding on that issue by Police or otherwise.

Deciding to restrict complainant contact

According to the level and nature of the complainant's contacts with us, the following actions may be taken:

- Requesting contact in a specific form (e.g. by letter only).
- Requesting contact be made with a named officer only.
- Setting the number of phone calls that will be accepted (e.g. one call a week).
- Refusing to deal with future correspondence on the same matter if a decision has already been reached.

The complainant will receive a copy of this policy with a covering letter explaining that the policy has been applied and how it will affect their contact with us.

The letter will outline the length of time for which the restrictions will be in place and how they can ask for the restricted status to be reviewed at the end of this period.

Appealing a decision to restrict contact

A complainant can appeal the decision to place them on the 'unreasonably persistent complainant' list within 10 working days of being notified of our decision.

This should be carried out in writing with reasons why they want to appeal and sent to:

- The Monitoring Officer, East Pallant House, East Pallant, Chichester, PO19 1TY

Recording and reviewing decisions

If a decision is made to apply the policy, this information will be recorded and shared with relevant officers within the council.

Any further correspondence from the complainant will be read and new genuine complaints will be dealt with accordingly.

Any new complaints made about new issues from people who have been considered under this policy will be treated on their merits of that new complaint.

A decision to restrict contact may be reconsidered if the complainant shows a more acceptable and consistent approach in their contact with the council, makes an acceptable apology or made undertakings as to future conduct. The views of officers or members of the Council affected by behaviour will also typically be sought before a decision is made to restore full contact.

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