

Revised Member Complaints Process

Report of the County Solicitor (Interim)

Recommendation:

That the Committee be asked to agree and endorse the streamlined Member Complaints Process, for publication to the website.

Summary

1. A revised Councillor Complaints Process is being submitted to the Committee for their review and attention. The County Solicitor (Interim) recently received the LGA Guidance on Complaints Handling which had been produced in relation to the LGA Model Code of Conduct (available at <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>). The Standards Committee, at its meeting on 4th November 2021, reviewed the LGA Model Code of Conduct and agreed that a revised Code of Conduct would be brought back to the next meeting of the Committee, encompassing the issues raised at the meeting, rather than adopting the Model Code in its entirety. This issue is the next item on the agenda. The LGA Guidance on Complaints Handling was reviewed in full to ensure any best practice could be taken on board and current processes were fit for purpose. The consensus was that the current guidance was fit for purpose, but the County Solicitor (interim) wished to streamline the current guide on the website, given the current guidance was confusing to navigate in places.

Introduction and Background

2. Following review, it was clear that the LGA Guidance on Complaints Handling was designed to assist monitoring officers, and anyone nominated by a monitoring officer to carry out investigations on their behalf. It is a very detailed document that gives helpful advice on matters such as carrying out interviews and how these should be conducted and how a report should be compiled for example.
3. The guidance also acknowledged that Local Authorities may have different practices and arrangements in place, and in accordance with the Localism Act, Local Authorities only need to have a mechanism in place for dealing with complaints. How this is done is a matter for individual authorities, but

what is important is that the principles of fairness, proportionality, transparency and impartiality apply to the process.

4. The Guidance quotes this Council in that any investigation must abide by the principles of natural justice (**R (Greenslade) v Devon County Council** 2019). That means that the Councillor must know what they are accused of and be given the opportunity to comment on the allegations. This is clearly covered in the process.
5. On balance, it is felt that the 40 pages of LGA guidance was a helpful source of information for practitioners, but the level of detail would not be helpful for the public or Members in understanding the steps to be taken in a complaint against an elected Member.
6. The proposed changes are intended to streamline and clarify the process by reducing the wordy nature of it and also incorporating the assessment criteria and public interest tests as appendices to the guide.

Changes Made to the Complaints Procedure

7. Please see below for a summary of the changes made to the current Councillor complaints process. The text of the original guide is still on the website at - <https://www.devon.gov.uk/democracy/councillors-nav/making-a-complaint-about-a-devon-county-councillor>.
 - Adjusting the chronological sequence of events to make it clear that any criminal allegations or an offence under the Localism Act may be passed to the Director of Public Prosecutions at the outset of the complaints process.
 - Clarificatory changes to the criteria where the complaint will not usually progress beyond the initial assessment stage. Clarifying that the preliminary assessment is carried out by the Monitoring Officer or their designated Deputy.
 - Embedded links have been inserted to an explanation of what is meant by 'public interest' when this term is used in specific parts of the complaints procedure. Also, this explanation was previously located in a separate document; now, it has been moved to Appendix 1 of this guide.
 - The Assessment Criteria, which is an essential component of Part 5 "*What happens to my complaint – how is it processed and dealt with?*" has been moved from Part 12 to a new Appendix 2 with appropriate cross references in Section 5. All the relevant information as to the Assessment Criteria and available options is now in a single location, with minor clarifications, thereby avoiding duplication and potential confusion.

Conclusion

8. The Committee is asked to endorse the revisions to the complaints process, noting that there have been no new elements added or previous aspects removed. The revisions have been made to streamline the content, make it more accessible and ensure it can be easily navigated on the website.
9. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed.

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[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
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Nil