

Committee: Standards and General Purposes Committee

Date: 22 July 2021

Wards: All

Subject: Member Complaints

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Peter McCabe, Chair, Standards and General Purposes Committee

Contact officer: Louise Round, Monitoring Officer

Recommendations:

- A. To agree that the Standards and General Purposes Committee appoint a sub-committee to undertake hearings as and when required to consider complaints against members under the members complaints process, part 5A of the Council's Constitution (Appendix A).
 - B. To agree the number of members required to sit on the Sub-Committee and to ask the relevant political groups to nominate their representatives for appointment by the Chief Executive using her delegated authority.
 - C. To note the verbal update from the Monitoring Officer on complaints against members received since the last ordinary meeting of the Committee in March 2021.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. At its' meeting on 7 July 2021, Council agreed a revised process for dealing with complaints that members had breached the code of conduct which would apply to all complaints received after 8 July 2021 as attached at Appendix A.
- 1.2. As part of this process and following consultation with the cross-party Constitution Working group, the revised process now requires that in the event there is a failure to comply with the code of conduct, the Monitoring Officer will review the investigating officer's report and in consultation with the Independent Person, will either (a) refer the matter to the Hearings Subcommittee which is a sub-committee of the Standards and General Purposes Committee or (b) seek local resolution. A sub-committee of the Standards and General Purposes Committee is therefore required to be appointed.

2 DETAILS

- 2.1.1 The revised process requires that, following a complaint, if an investigation is undertaken and the outcome of that investigation is that there is no breach of the code of conduct, then there is no requirement for a hearing and the matter is simply reported to the Standards and General Purposes Committee for information. However, if the conclusion of the investigating officer is that

there has been a breach then, on receipt of a report concluding that there had been a breach, the matter would proceed straight to a hearing by the sub-committee.

- 2.1.2 The default position should be a hearing by a hearings sub-committee. Whilst there is still the power for the full committee to conduct hearings this would be by exception.
- 2.1.3 It is considered sensible to appoint a hearings sub-committee on a standing basis, given that matters may be referred straight to hearing as describe above, rather than have to convene a full meeting of the committee to appoint a subcommittee on a case by case basis.
- 2.1.4 The sub-committee will be subject to the proportionality requirements contained in the Local Government and Housing Act 1989, however the subcommittee does not have to be drawn from among the membership of its parent committee. It is therefore proposed that the Standards and General Purposes Committee decide how many members should be on the sub-committee and provide nominations thereafter to Democratic Services.
- 2.1.5 Under these proportionality requirements, there are a number of proposed options for members to consider. The table below sets out the proportionality for varying sizes of sub-committee with the exact proportion and then the actual figure in brackets. This is based on the current make-up of the Council and would be required to be reviewed after the May 2022 elections. The final option would require local agreement between groups for the Merton Park Ward Independent Residents Group to be given a seat from the Conservative allocation as per the below, unless members wish to negotiate an alternative option to allow a member from the MPWIR group to sit on the sub-committee.

NO OF MEMBERS	LABOUR	CONSERVATIVE	LIBERAL DEMOCRATS	MERTON PARK INDEPENDENTS
5	2.83 (3)	1.42 (1)	0.50 (1)	0.25 (0)
7	3.97 (4)	1.98 (2)	0.70 (1)	0.35 (0)
9	5.10 (5)	2.55 (2*)	0.90 (1)	0.45 (1*)

- 2.1.6 It is noted that the Appointments sub-committee at Merton has recently used 5 members and this would allow for the same number of groups to be represented on the sub-committee as 7 members (see above).
- 2.1.7 Whilst 7 members could provide for representation of all groups (with local agreement) and would be manageable in terms of members availability, members may feel that this would be too large a group for this purpose.
- 2.1.8 It is also noted that the current membership of Standards and General Purposes Committee is 12 members and therefore the sub-committee should be made up of less members than this as

- the working group felt the whole committee hearing each complaint was not necessary.
- 2.1.9 The procedure for dealing with hearings is set out in the schedule to the complaints process (Appendix A).
 - 2.1.10 The meeting of the Hearings Sub-committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 and the Subcommittee resolves to go into private session having considered whether it is appropriate to do so, taking into account the public interest in the meeting.
 - 2.1.11 Council has delegated the authority to amend these arrangements to the Standards and General Purposes Committee.
 - 2.1.12 Training will be provided on the revised code of conduct to all members in Autumn 2021.
 - 2.1.13 Changes to the membership of the sub-committee can be agreed by the Standards and General Purposes Committee and there would be provision for substitutions particularly in the event that there was a conflict of interest for a member on the sub-committee who was therefore unable to be part of that particular hearing.

3 ALTERNATIVE OPTIONS

- 3.1. The Committee could choose not to accept the recommended changes although these were considered to be an improvement on the processes as currently drafted and have been agreed by Council.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The changes proposed in this report have been the subject of consultation with the cross party working group and the Council's two independent persons.

5 TIMETABLE

- 5.1. If the Committee agrees the proposals set out in this report, they will take immediate effect applying to all complaints received after 8 July 2021.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. There are no financial implications arising from this report.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The statutory framework governing member conduct is set out in the Localism Act 2011 and the proposals contained in this report are compliant with it.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None

11. APPENDICES

Appendix A – Members Complaints Process as agreed at Full Council 7 July 2021