
Ethics Committee

17th March 2017

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

Not applicable

Title:

Review of Complaints Protocol

Is this a key decision?

No

Executive Summary:

At its meeting on 24 March 2016 the Committee agreed to include a review of its Complaints Protocol in its work programme. The Protocol was approved by the Committee in 2012. This report sets out proposals for a new Protocol drawing on recent experience and practice and draws attention to areas where changes in the procedure for dealing with complaints against councillors are recommended. The draft Protocol is attached as an appendix to this report.

Recommendations:

The Ethics Committee is recommended to:

1. Approve the draft Complaints Protocol subject to any additional changes or amendments that it wishes to make; and
2. Authorise the Legal Services Manager (Place and Regulatory) to make any additional changes to the Complaints Protocol approved by the Committee and to publish and publicise the revised Protocol.

List of Appendices included:

Draft Complaints Protocol

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Review of Complaints Protocol

1. Context (or background)

- 1.1 The Council is required by the Localism Act 2011 to have in place arrangements for dealing with allegations of a breach of the Code of Conduct and of determining those allegations. The Council's Complaints Protocol sets out these arrangements and the Committee's terms of reference include approving and revising the Protocol. The Protocol sets out the detailed procedures for considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members.
- 1.2 The current Complaints Protocol was approved by the Committee at its meeting on 30 August 2012 and has not been reviewed or revised since then. At its meeting on 24 March 2016 the Committee decided to include a review of the Protocol drawing on experience of its operation since 2012.

2. Options considered and recommended proposal

- 2.1 At Appendix 1 to the report is a revised Complaints Protocol which has been developed in the light of experience of using the current Protocol. The draft Protocol is shorter than the existing one and, it is hoped, is simpler and easier to navigate and understand.
- 2.2 The attention of the Committee is drawn to a number of points where it is asked to give its view on whether the proposed change to the approved procedure should be agreed:
- (a) **Paragraph 3.3:** At present, the approved Protocol does not require the use of the Council's official complaints form. The revised Protocol does, however, require a complainant to complete this form before a complaint can be considered. Complaints in any other form will not be considered but help and advice will be given to complainants where needed. The Committee is asked whether it wishes to include this provision or maintain the existing requirements.
- (b) **Paragraph 6.1:** The approved Protocol provides that if the Investigating Officer concludes that there has been no breach of the Code of Conduct, any party not happy with the finding can ask for a hearing. This is inconsistent with the approach that other authorities take and can involve a significant amount of time and resources to arrange. Therefore officers are proposing that where the Investigating Officer finds no breach of the Code, the Monitoring Officer may decide to take no further action. The Monitoring Officer may refer the report back to the Investigating Officer if they are not satisfied that the complaint has been properly investigated.
- (c) **Paragraph 7.1 to 7.3:** where the Investigating Officer concludes that a breach of the Code has occurred, this new provision allows the Monitoring Officer to seek a summary resolution to the matter rather than referring for a formal hearing. The Monitoring Officer must first consult the Independent Person before taking this action and there are provisions for referring the matter for hearing if resolution is unsuccessful. The Committee is asked for its view on this proposal which, it is hoped, will mean that formal hearings are reserved for those matters which are potentially serious enough to warrant a hearing.
- (d) **Paragraph 13.1:** At present, when the Committee has decided that a councillor has breached the Code, it seeks representations from the councillor and from the Independent Person as to sanctions. It is proposed that in future the views of the Investigating Officer should also be sought before sanctions are applied as it is felt that it will help the Committee in determining the seriousness of the matter and level of appropriate sanction

The Committee is asked to consider these four highlighted departures from the current Protocol in addition to giving its views on the draft Protocol as a whole.

2.3 Recommendations

The Ethics Committee is recommended to:

1. Approve the draft Complaints Protocol subject to any additional changes or amendments that it wishes to make; and
2. Authorise the Legal Services Manager (Place and Regulatory) to make any additional changes to the Complaints Protocol approved by the Committee and to publish and publicise the revised Protocol.

3. Results of consultation undertaken

None

4. Timetable for implementing this decision

- 4.1 If approved, the revised Complaints Protocol would take effect immediately.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

The Council is required by Section 28(6) of the Localism Act 2011 to have in place arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made. The Council's Complaints Protocol fulfils this obligation. It is good practice to review these arrangements from time to time to ensure that they are working properly and are fit for purpose.

6. Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

If approved, the revised Complaints Protocol will facilitate the investigation and determination of complaints against members in accordance with the Localism Act.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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