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## Chelmsford City Council Governance Committee

8 March 2023

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### Further review of Standards complaints procedures – principles and investigation procedure

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Report by:  
Monitoring Officer

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Officer Contact:  
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#### Purpose

To provide an update in relation to the further work which has been undertaken in relation to the review of the Council's Standards complaints procedures in relation to complaint handling principles and investigation procedure.

#### Recommendations

1. To consider any proposed changes following the review, approving changes as considered appropriate.
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#### 1. Background

- 1.1. A periodic review of standards complaints procedures has been undertaken to ensure compliance with changes in legislation (eg Localism Act 2011), guidance and also in light of the high level of complaints received in 2021. The standards complaint procedure was reviewed at the Governance Committee meeting in January 2023. The complaint handling principles, assessment

criteria and investigation procedure have now been reviewed. The flowchart which is part of annex 2 has not been changed but is attached for ease of reference.

- 1.2. A number of minor changes are recommended and the proposed changes are included in the appendices as tracked changes. Most of the proposed changes simply seek to clarify and provide more detail as to the current process.
- 1.3. One particular change is sought to enable a more proportionate response in exceptional circumstances where multiple complaints are received. This is set out in Appendix 1 and would enable the Monitoring Officer to conclude that no further action or other action is taken without notifying the councillor concerned or wasting resources unnecessarily.

## 2. Conclusion

- 2.1. Members of the Governance Committee are asked to consider the proposed changes to the complaint handling principles, assessment criteria and investigation procedures to determine the final version.

### List of appendices:

- Appendix 1 – Standards Complaints Principles (Annex 6)
- Appendix 2 - Investigation Procedure (Annex 4)
- Appendix 3 - Complaints Assessment Criteria (Annex 3)
- Appendix 4 – Complaints Procedure Flowchart

### Background papers: LGA guidance for Monitoring Officers

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### Corporate Implications

Legal/Constitutional: The legislative requirements are addressed in the report.

Financial: None

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: The process assists to determine allegations of behaviour which falls below that required by the Member Code of Conduct and where necessary take appropriate action.

Equality and Diversity: As only minor changes are recommended no impact assessment is required

Health and Safety: None

Digital: None

Other: None

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Consultees: None

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Relevant Policies and Strategies:

Current Code of Conduct

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## PART 5.1.2 ANNEX 6

# ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS

## Principles for the introduction of “Arrangements” for dealing with Standards Complaints

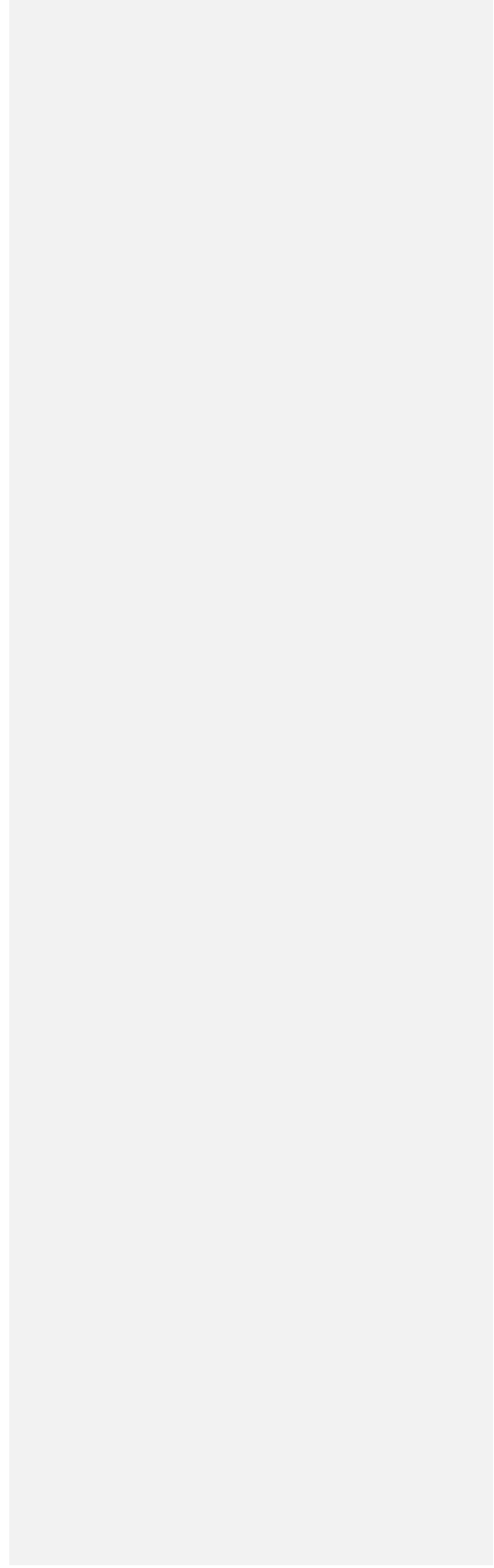
1. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. In exceptional cases where there is a history of previous complaints by complainant(s) or complaints against any particular councillor(s), the Monitoring Officer is empowered to determine that no further action or appropriate “other action” should be taken without notifying the councillor subject to a complaint that a complaint has been received and/or not consulting the independent person in reaching the initial assessment decision.
2. The Monitoring Officer is instructed to seek resolution of complaints without formal investigation wherever practicable, and
  - has full discretion to refer decisions on investigation to the Governance Committee where it is inappropriate for her to take the decision, and
  - will report quarterly to the Governance Committee on the discharge of this function.
3. Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer is instructed to close the matter, provided a copy of the report and findings of any investigation has been sent to
  - the complainant
  - the member concerned
  - ~~• to the Independent Person, and~~
  - ~~• a report of the findings is made to the Governance Committee for information.~~
4. Where the investigation finds evidence of a failure to comply with the Code of Conduct -
  - the Monitoring Officer, in consultation with the Independent Person, is authorised to seek a resolution in appropriate cases provided a summary report is made to the Governance Committee for information; or
  - where such resolution is not appropriate or not possible, she is to report the investigation findings to the Governance Committee for a hearing.
5. The Council shall delegate to the Committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include:
  - Reporting its findings to Council (*or to the Parish tier Council*) for information;

- Recommending to Council that the member be issued with a formal censure or reprimand (or to the Parish tier Council);
- Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to *(or recommend that the Parish tier Council)* arrange training for the member;
- Recommending to the Council that they be removed *(or recommend to the Parish tier Council that the member be removed)* from all outside appointments to which they have been appointed or nominated by the authority *(or by the Parish tier Council)*;
- Withdrawing *(or recommend to the Parish tier Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- Excluding *(or recommend that the Parish tier Council exclude)* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

PART 5.1.2 ANNEX 4

INVESTIGATION PROCEDURE

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## PART 5.1.2 ANNEX 3

### COMPLAINTS ASSESSMENT CRITERIA

## **Complaints will not normally be referred for investigation where-**

1. The complaint is not considered sufficiently serious to warrant investigation; or not in the public interest to do so.
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct for example-
  - 4.1 It relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
  - 4.2 It is about someone who is no longer a Councillor; or
  - 4.3 There is insufficient information/evidence available for a referral; or
  - 4.4 It relates to a Councillor not replying to correspondence.
5. It is a complaint about matters not covered by the Code such as an alleged breach about the requirements surrounding disclosable pecuniary interests; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances such as an allegation of bullying or harassment; or
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance Committee; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
10. Where the Councillor complained of has apologised and/or admitted to making an error and the matter would not warrant a more serious sanction.

**A Complaint may be referred for investigation or to the Governance Committee where-**

1. It is serious enough, if proven, to justify the range of actions available to the Governance Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. It would be difficult or inappropriate for the Monitoring Officer to investigate the complaint for example-
  - 3.1 The complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer; or
  - 3.2 The complaint is about a high profile Member such as the Leader of the Council; or
4. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to investigate.

**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.**

# PART 5.1.2 Annex 2

## Complaints Procedure Flowchart

