

## **East Herts Council**

**Date of Meeting:** 5 January 2023

**Report by:** Head of Legal and Democratic Services

**Report title:** Review of Councillor Complaints Handling Procedure

**Ward(s) affected:** All

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### **Summary**

- The report covers the review of the Councillor Complaints Handling Procedure (herein 'the Procedure') under the Localism Act 2011.
- The current Procedure was last reviewed by the Standards Committee in August 2011 and approved by Council in September the same year.
- East Herts adopted the LGA Model Councillor Code of Conduct on 12<sup>th</sup> May 2021, and so it is appropriate that the Procedure be reviewed also.

### **RECOMMENDATIONS that:**

- (a) The Standards Committee recommends to Council the adoption of the revised Councillor Complaints Handling Procedure as contained at Appendix 1, and**
- (b) The Standards Committee delegates to the Head of Legal and Democratic Services the authority to make minor amendments to the Procedure, in consultation with the Chair and Vice Chair of the Standards Committee and Independent Person as required from time to time.**

### **1.0 Proposal(s)**

1.1 It is contained within the terms of reference of the Standards

Committee that the Committee will advise the Council upon the contents of, and requirements for, codes/protocols/other procedures relating to standards or conduct throughout the council<sup>1</sup>.

- 1.2 It is further the role of the Standards Committee to maintain an oversight of the council's arrangements for dealing with complaints<sup>2</sup>.
- 1.3 Pursuant to this, and it considering it prudent to do so, it is proposed that the Standards Committee recommend to Council that the revised Councillor Complaints Handling Procedure contained at Appendix 1 be adopted.

## **2.0 Background**

- 2.1 The existing Councillor Complaints Procedure, contained at Appendix 2, has remained unchanged since it was adopted by Council in September 2011.
- 2.2 Since then, East Herts has adopted the new LGA Model Code of Conduct, and it is therefore timely that the Procedure setting out how complaints made under it is also reviewed.
- 2.3 Some notable changes in the revised Procedure are as follows:
  - 2.3.1 A requirement that complainants complaining against Parish or Town Councillors first seek a local resolution before it progresses further with the Monitoring Officer. A majority of the standards complaints received relate to local councils which may be possible of resolution at that level, however there is currently no mechanism by which to formally encourage this in the first instance; providing there is still the ability to make a complaint to the principal Council (i.e. East Herts Council) should this fail. This will likely lead to

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<sup>1</sup> [Para 7.4.1 \(j\) of the Constitution](#)

<sup>2</sup> [Para 7.4.1 \(k\) of the Constitution](#)

much quicker resolutions to some complaints due to them not needing to be considered by the Monitoring Officer.

- 2.3.2 Clearer definition of the different stages to a complaint, including the Initial Assessment Stage, Investigation Stage and Sub-Committee Stage, detailing what happens in each.
  - 2.3.3 More detail around the hearing process, including the introduction of a Case Management Hearing stage to allow for a smoother eventual Final Determination Hearing.
  - 2.3.4 A clearer explanation of the role of the Independent Person.
- 2.4 The revised Procedure is much cleaner, easier to follow and comprehensive than the current version.

### **3.0 Reason(s)**

- 3.1 To ensure an updated Procedure is in place that complements the new LGA Model Code of Conduct and to maintain effective arrangements within the Council.
- 3.2 Where a delegation is made to the Head of Legal and Democratic Services to effect minor changes to the Procedure as and when required, it will mean that these can be enacted much quicker and without the need to wait until the next meeting of the Standards Committee, and latterly Council.
- 3.3 Any changes made by the Head of Legal and Democratic Services under such delegation would then be reported to the next meeting of the Standards Committee.

## **4.0 Options**

4.1 The current Procedure could be retained; however, as it is over a decade old this would not be the most effective option.

## **5.0 Risks**

5.1 Up to date and appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

## **6.0 Implications/Consultations**

6.1 None

### **Community Safety**

No

### **Data Protection**

Yes – The Procedure makes several references to the importance of confidentiality and how to treat information received by the Monitoring Officer during the course of a complaint.

### **Equalities**

Yes – Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest.

### **Environmental Sustainability**

No - There are no environmental implications to this report.

### **Financial**

No - There are no capital or revenue implications arising from the content of this report. Complaints are dealt with by the Monitoring Officer and Deputy Monitoring Officer, with some referrals externally should the Procedure indicate that this is appropriate or because of resource implication within the Directorate in dealing with this in-house.

## **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

No - The work outlined within the report is within the caseload of the Monitoring Officer. Implications are otherwise touched on under financial implications above

## **Legal**

Yes – The Standards Committee has a function under paragraph 7.4.1(k) to maintain an oversight of the council's arrangements for dealing with complaints.

## **Specific Wards**

No

## **7.0 Background papers, appendices and other relevant material**

- 7.1 Appendix 1 – Revised Councillor Complaints Handling Procedure.
- 7.2 Appendix 2 – Existing Councillor Complaint Procedure.

## **Contact Member**

None

## **Contact Officer and Report Author**

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**Report Author**

As above